

Refer To: Committee on Boundary Settlement

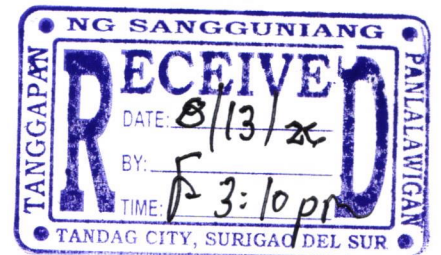
REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
Cagayan de Oro City

IN THE MATTER OF CIVIL CASE NO.
2041-24, SETTLEMENT OF MUNICIPAL
BOUNDARY DISPUTE BETWEEN THE
MUNICIPALITIES OF TAGO AND
TANDAG (NOW CITY OF TANDAG),
PROVINCE OF SURIGAO DEL SUR

CA-G.R. SP No. 13631-MIN

MUNICIPALITY OF TAGO, as represented
by Municipal Mayor JELIO VAL C.
LAURENTE,

Petitioner,



-versus-

MUNICIPALITY OF TANDAG
(NOW CITY OF TANDAG),

Respondent.

X-----X

COMMENT

(For Respondent City of Tandag)

Respondent **CITY OF TANDAG** (the "**City**"), through the undersigned counsel, respectfully submits this Comment pursuant to the Resolution dated July 16, 2026, and states:

PRELIMINARY STATEMENT

"He who alleges must prove." In this case, Petitioner bears the burden of proving that the disputed 309.1530 hectares belong to Tago.

The Amended Petition should not be given due course because it fails to demonstrate any reversible error in the RTC Decision affirming the SP's determination that the disputed 309.1530 hectares form part of Barangay Rosario,



Tandag. Contrary to Tago's premise, the RTC did not rely solely on the 1967 Tandag Cadastre but considered Executive Order No. 41, Joint Resolution No. 4 of 1919 as reported in later local resolutions, Resolution No. 88-81 in its entirety, the parties' administrative acts, and the official survey records, including CAD-392-D and PLS-710. Executive Order No. 41 contains no technical description placing the disputed area within Tago; the historical landmarks attributed to Joint Resolution No. 4 do not technically identify the disputed parcel; and Resolution No. 88-81, read as a whole, rejects Tago's geographic interpretation and formally maintains the highway crossing as the boundary. Although the Compliance and Amended Petition supplied additional pleadings and correspondence, they still provide no definite technical description connecting the disputed parcel to Tago. Ultimately, an acknowledgment that a historical instrument was reportedly adopted cannot be enlarged into proof of a boundary that Tandag expressly disputed and Tago has never technically established.

Ultimately, the antiquity and repetition of a territorial claim cannot supply the competent proof it has always lacked; absent such proof, there is no legal basis to disturb the concordant findings of the SP and the RTC.

TIMELINESS OF FILING

1. The City received on August 3, 2026 the Court's Resolution dated July 16, 2026 directing it to file a Comment within ten (10) days from notice. Excluding the date of receipt, the tenth day falls on August 13, 2026. This Comment is being filed within the ten-day period ending on August 13, 2026 and is therefore timely.

RESPONSE TO PETITIONER'S STATEMENT OF MATTERS INVOLVED

2. Pursuant to Section 5, Rule 42 of the Rules of Court, Respondent accepts only the procedural facts that petitioner appealed from Sangguniang Panlalawigan Resolution No. 1557-24 to the Regional Trial Court; that the RTC rendered its Decision dated April 15, 2026 affirming the SP; that the RTC denied petitioner's motion for reconsideration in its Order dated

May 19, 2026; and that petitioner thereafter sought review before this Honorable Court. Except for those matters and such other facts expressly admitted in this Comment, Respondent does not accept petitioner's statement of the matters involved.

3. Without repeating petitioner's narration, Respondent points out the following material insufficiencies and inaccuracies:

First, the Amended Petition inaccurately portrays the RTC as having relied solely on the 1967 Tandag Cadastre. The RTC separately considered Executive Order No. 41, the alleged Joint Resolution No. 4, Resolution No. 88-81, the parties' asserted governmental acts, the cadastral and public-land survey records, and the other evidence presented before the SP.

Second, the Amended Petition assumes, without competent technical proof, that Executive Order No. 41 and Joint Resolution No. 4 place the disputed 309.1530 hectares within the former Municipality of Tago. Executive Order No. 41 contains no metes and bounds or other technical description of the parcel. Although Resolution No. 88-81 refers to and quotes the reported terms of Joint Resolution No. 4, neither the source instrument nor any competent technical correlation identifying its road, mountain, and watershed references with the disputed parcel was supplied with the Amended Petition.

Third, the Amended Petition presents selected recitals of Resolution No. 88-81 as an unqualified admission by Tandag. Read as a whole, however, the resolution expressly disputes Tago's identification of the road and mountain mentioned in the reported 1919 agreement; places the site invoked by Tago in Lacadon, Rosario; cites PLS-710 as ending at the crossing; recounts Tandag's jurisdictional acts; and resolves to urge recognition of the national-highway crossing as the boundary.

Fourth, the annotation "claimed by the Municipality of Tago" on CAD-392-D records the existence of an adverse claim; it neither adjudicates the claim in Tago's favor nor deprives the official cadastral survey of probative value.

Fifth, the Amended Petition incorrectly treats Tago's creation in 1918 as the automatic critical date. Under ***Municipality of Makati v. Municipality of Taguig***, the critical date is when the

particular territorial dispute crystallized, not necessarily when an LGU was created.

Sixth, paragraph 54 of the Amended Petition states that the January 16, 2005 affidavit of Barangay Victoria residents is attached as **Annex “X”**, although Annex “X” is petitioner’s Reply/Comment dated May 20, 2026. It also acknowledges that Exhibits “D,” “E,” and “F” of Tago’s 2005 Position Paper remain unavailable.

Seventh, although the Amended Petition repeatedly assails the SP’s adjudication and the evidence presented by Tandag, petitioner did not attach the **full text of the Decision of the Committee on Boundary Settlement referred to in SP Resolution No. 1557-24** (*Amended Petition for Review*, par. 23, p. 5; **Annex “K”**) and **Tandag’s Supplemental Position Paper** filed before the SP in 2023 (*Amended Petition for Review*, par. 22, p. 5). These are material portions of the administrative record because they disclose the actual findings reviewed by the RTC and the evidentiary grounds timely advanced by Tandag below. Their omission reinforces the Amended Petition’s incomplete portrayal of the proceedings before the SP.

The corrected factual context is set out in the following Counter-Statement of Facts. The reasons why the Amended Petition should not be given due course are stated, without unnecessary repetition, in Arguments I to VI below.

BRIEF COUNTER-STATEMENT OF FACTS

4. Executive Order No. 41, effective January 1, 1919, separated the “former municipality of Tago” from Tandag, allocating to Tago the territory comprised in the former municipality of Tago and leaving the remainder with Tandag. It prescribed no metes and bounds and did not identify the disputed 309.1530 hectares, Kilometer 6, Cambating Mountain, Barangay Victoria, or Barangay Rosario. (*Executive Order No. 41*, p. 2 [**Annex “E” of the Amended Petition.**]) As pointed out by the SP in its committee decision:

“Unfortunately, the charter of Tago as shown in Executive Order No. 41 only states:

The municipality of Tandag shall consist of its present territory less the territory comprised of the former municipality of Tago. The municipality of Tago shall consist of the territory comprised in the former municipality of Tago.

Tago, unfortunately, did not provide the exact boundaries that comprised the former municipality of Tago.” (Committee on Boundary Settlement Decision, p. 13 [Annex “1” of this Comment].)

Thus, while EO No. 41 effected the territorial separation, it did not technically delineate the resulting boundary on the ground.

5. **The official Public Land Subdivision Survey of Tago, PLS-710, dated October 30, 1972, did not include the disputed area and reflected the national road as the boundary.** The Boundary and Index Map of the Tandag Cadastre, CAD-392-D, Case 4, Parcel 1, surveyed from 1965 to 1967 and approved on November 6, 1967, placed the disputed 309.1530 hectares in Barangay Rosario, Tandag. The pertinent municipal boundary monuments identified in the proceedings lie along the national road. (*Tandag Supplemental Position Paper*, par. 7.3, citing Annex “N” of Annex “G” of the Amended Petition, pp. 8-9 [Annex “2” of this Comment]; Committee on Boundary Settlement Decision, pp. 6, 20-21 [Annex “1” of this Comment]; RTC Decision, pp. 5-6 [Annex “A” of the Amended Petition].)
6. The Committee on Boundary Settlement’s full Decision—referred to in SP Resolution No. 1557-24 (*Annex “L” of the Amended Petition*)—shows that the SP ruled for Tandag on three distinct grounds: (1) **Tago failed to prove by preponderance of evidence that the disputed 309.1530 hectares were within its territorial jurisdiction;** (2) **the cadastral and public-land surveys supported Tandag’s jurisdiction and exercise of authority over the area;** and (3) **contemporaneous acts of lawful authorities favored Tandag.** The Committee further held that Executive Order No. 41 did not identify the exact limits of the former Municipality of Tago; that Tago did not produce Joint Resolution No. 4 or proof of the alleged 1963 Provincial Board session; that PLS-710, undertaken at Tago’s instance, stopped at the national highway; and that CAD-392-D placed the area in Barangay Rosario, Tandag. (Committee on Boundary Settlement Decision, pp. 14–25 [Annex “1” of this Comment].)

7. **The full text of Resolution No. 88-81 is not the unqualified concession portrayed in the Amended Petition.** While it acknowledges the reported existence of Executive Order No. 41 and a 1919 joint resolution and reproduces the latter's alleged wording, it immediately disputes Tago's geographic application of those words. It distinguishes Cambating proper from the hill and road in Lacadon, Rosario; explains that the road invoked by Tago was constructed only in the 1920s; identifies a different route from Kilometer 6 to Cambating; invokes PLS-710, tax payments, voter registration, and barrio administration; and ultimately urges recognition of the national-highway crossing as the boundary. (*Resolution No. 88-81, Whereas clauses and dispositive portion [Annex "L" of Annex "G" of the Amended Petition].*)
8. Tandag's 2023 Supplemental Position Paper, filed pursuant to the Committee's June 6, 2023 Order, placed the same evidentiary matters squarely before the SP. It emphasized that neither Act No. 2711 nor Executive Order No. 41 supplied a technical boundary; that PLS-710, initiated for Tago, ended at the national-highway crossing; that Tago had produced neither Joint Resolution No. 4 nor the minutes of the alleged 1963 Provincial Board session; and that Republic Act No. 9392 preserved the existing administrative supervision of disputed areas pending final resolution. It also invoked the statutes identifying the state-college main campus as located in Tandag. (*Tandag Supplemental Position Paper, pp. 4-10 [Annex "2" of this Comment].*)
9. **The RTC did not disregard Tago's evidence.** It expressly discussed Resolution No. 88-81; the alleged Joint Resolution No. 4; the 1967 cadastre and its adverse-claim annotation; the tax declarations, assessor certifications, permits, affidavits, petitions, and legislative references; and Tago's due-process claim. (*RTC Decision, pp. 4-8 [Annex "A" of the Amended Petition].*)
10. The RTC held that no original, certified, authenticated, or otherwise reliable copy of Joint Resolution No. 4 had been competently presented before the SP. (*RTC Decision, p. 5 [Annex "A" of the Amended Petition]; RTC Order, p. 2. [Annex "B" of the Amended Petition]*) Respondent does not, however, rest its defense on a categorical denial that a joint resolution was reportedly adopted in 1919. The material point is that **the precise and authoritative text of the source instrument was not produced** and, even if the wording quoted in later

resolutions is accepted, **its historical landmarks remain too indefinite, standing alone, to locate the disputed parcel or prevail over the approved technical records.**

11. The RTC also explained that the notation "*claimed by the Municipality of Tago*" did not adjudicate the area in Tago's favor; it merely recorded the existence of a competing claim. The notation did not strip the cadastral map of its official character. (*RTC Decision*, p. 6 [*Annex "A" of the Amended Petition*]; *RTC Order*, p. 2. [*Annex "B" of the Amended Petition*])
12. Tago's Position Paper, now attached as **Annex "G"** to the Amended Petition, expressly stated that a technical description of the Tago-Tandag boundary was "**not available**" and that CAD-392-D and PLS-710 could help locate the line on the ground. (*Annex "G" of the Amended Petition*, par. (d), p. 6.) It also stated that the MBMs of CAD-392-D were consistent with the boundary description Tago attributed to Joint Resolution No. 4. (*Id.*, pp. 8-9.) Those submissions undermine the Amended Petition's present theory that CAD-392-D has no probative value.

ISSUES LAID BY THE PETITIONER

1. **Whether the RTC erred in allegedly relying solely on the 1967 Tandag Cadastre;**
 2. **Whether the RTC erred in allegedly failing to consider Tago's historical and documentary evidence; and**
 3. **Whether the RTC erred in allowing the SP to fix the critical date in 1980 instead of 1918.**
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13. From the City's perspective, the appeal also presents the antecedent question **whether the Compliance and Amended Petition cure the decisive evidentiary deficiencies below**—particularly the nonproduction of an original, certified, archival, or otherwise competent copy of the source Joint Resolution No. 4, the continued absence of Exhibits "D," "E" and "F" of Tago's 2005 Position Paper, and the lack of any competent technical

correlation placing the disputed parcel within the former Municipality of Tago.

MATERIAL PORTIONS OF THE RECORD AND SUPPORTING PAPERS

In compliance with Section 5, Rule 42 of the Rules of Court, Respondent incorporates by reference the material portions of the record already appended to the Petition for Review and Amended Petition for Review under their existing annex designations. To avoid unnecessary duplication, Respondent does not re-append documents already submitted by Petitioner.

In particular, Resolution No. 88-81 dated February 16, 1981 is referred to herein as ***Annex "L"*** of Petitioner's Position Paper dated February 14, 2005, which Position Paper forms part of ***Annex "G" of the Amended Petition for Review***. The certified machine copy submitted by Petitioner under that designation is incorporated herein by reference.

Respondent submits with this Comment the following documents that formed part of the proceedings before the Sangguniang Panlalawigan, but were not appended to the Petition or Amended Petition for Review. **They are submitted not as new evidence on appeal, but as material portions of the administrative record underlying the SP adjudication reviewed by the RTC:**

Annex "1" — Full text of the Decision of the Committee on Boundary Settlement, as adopted and referred to in Sangguniang Panlalawigan Resolution No. 1557-24 dated January 30, 2024, which appears as ***Annex "L" of the Amended Petition***; and

Annex "2" — Supplemental Position Paper of Respondent City of Tandag dated June 29, 2023, duly filed before the Committee on Boundary Settlement.

The RTC Decision dated April 15, 2026; the RTC Order dated May 19, 2026; Sangguniang Panlalawigan Resolution Nos. 1557-24 and 1851-24; Executive Order No. 41 dated November 6, 1918; Resolution No. 88-81; CAD-392-D; PLS-710; and the other documents already appended to the Petition or Amended Petition are likewise

incorporated herein by reference under their respective existing annex designations.

Petitioner's Compliance dated August 7, 2026, together with its attachments, and this Honorable Court's Resolution dated July 16, 2026 already form part of the appellate record and are referred to herein under their existing designations.

ARGUMENTS

I

TAGO'S COMPLIANCE AND SUPPLEMENTATION DO NOT CURE THE DECISIVE EVIDENTIARY DEFICIENCIES OR ESTABLISH ANY BASIS TO REVERSE THE JUDGMENT.

14. Rule 42, Section 2(d) requires a petition for review to be accompanied by clearly legible duplicate originals or true copies of the assailed judgments or final orders and copies of the pleadings and other material portions of the record supporting the petition. In response to the Court's Resolution dated July 16, 2026, Tago filed its Compliance dated August 7, 2026 and submitted an Amended Petition with additional Annexes "S" to "Y-2." The City acknowledges that this filing facially attempts to rectify the caption and documentary deficiencies identified by the Court. Substantial compliance with Rule 42, however, does not establish the truth, authenticity, or probative force of the materials invoked, nor does it supply the missing factual link between the alleged historical boundary and the disputed parcel.
15. The additional annexes principally consist of the Notice of Appealed Case (Annex "S"), the parties' RTC memoranda (Annexes "T" and "U"), Tago's Motion for Reconsideration and the City's Comment/Opposition (Annexes "V" and "W"), Tago's Reply/Comment (Annex "X"), and correspondence requesting records (Annexes "Y" to "Y-2"). These documents may complete portions of the procedural record, but they do not prove that the disputed 309.1530 hectares were within the territory comprised in the former Municipality of Tago.
16. While the Amended Petition includes or incorporates several portions of the administrative and judicial records, it does not append two (2) material documents forming part of the

proceedings before the Sangguniang Panlalawigan: (a) **the full text of the Decision of the Committee on Boundary Settlement, as adopted and referred to in SP Resolution No. 1557-24;** and (b) **Respondent City of Tandag's Supplemental Position Paper dated June 29, 2023 and duly filed before the Committee.** These documents are not presented as new evidence on appeal, but are submitted as material portions of the administrative record underlying the SP adjudication reviewed by the RTC. Respondent accordingly attaches them as **Annexes "1" and "2"**, respectively. Resolution No. 88-81 dated February 16, 1981, on the other hand, already appears as **Annex "L"** of Petitioner's Position Paper dated February 14, 2005, which forms part of **Annex "G" of the Amended Petition**, and is incorporated herein by reference under its existing designation.

17. Tago expressly acknowledges that Exhibits "D", "E" and "F" of its 2005 Position Paper (*Annex "G" of the Amended Petition*)—the municipal base maps of Tago and Tandag and the provincial map—remain unavailable. (*Amended Petition, pars. 17 and 57-59.*) These missing exhibits must not be confused with Annexes "D," "E" and "F" of the Amended Petition. Moreover, none of the supplementation contains the source Joint Resolution No. 4. Annexes "T", "V" and "X" merely discuss it. Resolution No. 88-81 reports and quotes its alleged terms, but the complete resolution simultaneously disputes Tago's identification of the described landmarks and maintains that the highway crossing—consistent with PLS-710—is the boundary. Thus, the later recital does not supply the missing technical correlation between the reported 1919 description and the present 309.1530-hectare parcel.
18. The Amended Petition also contains a material annex inconsistency. Paragraph 54 states that an affidavit dated January 16, 2005 executed by residents of Barangay Victoria is attached as **Annex "X"**. Annex "X" however, is Tago's Reply/Comment dated May 20, 2026—not the claimed residents' affidavit. The assertion in paragraph 54 is therefore unsupported by the annex it cites. Annexes "Y" to "Y-2" establish, at most, that counsel requested records and that certain documents could not be located despite a search; they do not prove the contents of the missing documents. Thus, **even after amendment and supplementation, the precise and authoritative text of Joint Resolution No. 4 has not been established by the source instrument, the three base-map exhibits remain missing, and no competent pre-1967**

technical description places the disputed parcel within Tago.

II

THE RTC DID NOT RELY SOLELY ON THE 1967 TANDAG CADASTRE; IT REVIEWED THE ENTIRE EVIDENTIARY THEORY ADVANCED BY TAGO AND FOUND THE OFFICIAL TECHNICAL RECORDS MORE PERSUASIVE.

19. The first assigned error is contradicted by the RTC Decision itself. The RTC separately addressed the SP's statutory authority and standard of review, the legal nature of municipal boundaries, Resolution No. 88-81, the alleged Joint Resolution No. 4, the 1967 cadastre and its annotation, the parties' tax, permitting, affidavit, and legislative evidence, and due process. (*RTC Decision*, pp. 3-8 [*Annex "A" of the Amended Petition*])
20. The Committee Decision itself refutes the claim of single-source reliance. Before reaching its dispositive conclusion, the SP separately analyzed the governing charters, burden of proof, Joint Resolution No. 4 and the alleged 1963 proceedings, the critical-date doctrine, PLS-710, CAD-392-D, tax declarations and assessor records, and the statutes locating the state-college campus in Tandag. It then expressly found that Tago's evidence failed to preponderate, that the official surveys favored Tandag, and that contemporaneous official acts confirmed Tandag's jurisdiction. (*Committee on Boundary Settlement Decision*, pp. 13-26 [*Annex "1" of this Comment*])
21. On Resolution No. 88-81, the RTC held that even if its statements regarding an "original boundary" were considered, the resolution remained a local legislative act incapable, by itself, of establishing or altering the boundary between two LGUs. Its full text confirms why it must be weighed as a whole: **the same resolution that recounts the reported 1919 description rejects Tago's identification of the road and mountain, relies on PLS-710 and contemporaneous jurisdictional acts, and resolves in favor of the highway crossing. It is an evidentiary circumstance—not a substitute for the creating law and authoritative technical records.** (*RTC Decision*, p. 4, [*Annex "A" of the Amended Petition*]; (*Resolution No. 88-81*, [*Annex "L" of Annex "G" of the Amended Petition*])

22. On Joint Resolution No. 4, the RTC found no satisfactory showing that the source instrument had been established through an original, certified, authenticated, or otherwise reliable copy before the SP. (*RTC Decision*, p. 5 [*Annex "A" of the Amended Petition*]) The Order denying reconsideration reiterated the same evidentiary deficiency. (*RTC Order*, p. 2 [*Annex "B" of the Amended Petition*]) Tandag's acknowledgment in Resolution No. 88-81 that a joint resolution existed "as alleged" does not negate that finding: the acknowledgment may be considered for what it actually states, but it neither supplies the original instrument, nor proves that the historical landmarks attributed to it encompass the disputed 309.1530 hectares.
23. On Tago's administrative evidence, the RTC acknowledged that tax declarations, certifications, permits, affidavits, petitions, and legislative references could indicate an asserted exercise of authority or local understanding. It nevertheless held that they did not conclusively establish a municipal boundary and did not overcome the official cadastral and survey records. (*RTC Decision*, pp. 6-7 [*Annex "A" of the Amended Petition*])
24. The RTC's analysis is consistent with ***Municipality of Nueva Era v. Municipality of Marcos, G.R. No. 169435, February 27, 2008***: boundary settlement may locate, but not alter, the territory fixed by law. Since Executive Order No. 41 contains no technical description identifying the disputed parcel, the adjudicating bodies properly considered **competent technical and historical evidence** to locate the preexisting boundary on the ground.
25. The RTC did not treat the cadastre as an infallible source of law. It treated it as **the more reliable technical evidence on the record**: an official survey approved by the Director of Lands, read together with related technical records, including PLS-710. That comparative assessment does not constitute "sole reliance". It is precisely the weighing of evidence that Tago says was required.
26. Tago's own Position Paper reinforces that conclusion. It bears emphasis that Tago admitted the absence of technical description of the disputed boundary and identified CAD-392-D and PLS-710 as records that could locate the boundary on the ground. It further asserted that the MBMs established in CAD-392-D were consistent with Tago's interpretation of the alleged Joint Resolution. (*Annex "G" of the Amended Petition*, pp. 6, 8-10)) Tago cannot invoke the same technical records when useful

to its theory and then insist on appeal that the RTC committed reversible error by giving those records substantial weight.

27. The same issues had likewise been framed in Tandag's Supplemental Position Paper: it challenged the absence of any technical boundary in Executive Order No. 41, pointed to the geographical limits of Tago's own PLS-710, objected to the nonproduction of Joint Resolution No. 4 and the alleged 1963 minutes, and relied on the relevant statutes and official surveys. (*Tandag Supplemental Position Paper*, pp. 4-10 [Annex "2" of *this Comment*].) The RTC therefore reviewed an adjudication grounded on competing submissions and multiple classes of evidence—not a cadastral conclusion reached in isolation.

III

EXECUTIVE ORDER NO. 41 DOES NOT PROVE THAT THE DISPUTED 309.1530 HECTARES FORMED PART OF THE "FORMER MUNICIPALITY OF TAGO."

28. Executive Order No. 41 supplies the governing legal test: Tago received the territory comprising the former Municipality of Tago, while Tandag retained its existing territory less that territory. The Order is valid and controlling, but it does not identify the disputed parcel by coordinates, courses, distances, monument calls, or other technical description.
29. **Executive Order No. 41 therefore does not, by itself, answer whether CAD-392-D, Case 4, Parcel 1—comprising 309.1530 hectares in Barangay Rosario—was within the territory of the former Municipality of Tago.** Because Tago sought an adjudication of that particular area in its favor, it bore the burden of establishing the factual link through reliable contemporaneous evidence.
30. The SP correctly placed that burden on Tago. Its Decision observed that Tago originated from Tandag and therefore had to demonstrate, through competent evidence, that the disputed parcel was included in the territory carved out by Executive Order No. 41. (*Committee on Boundary Settlement Decision*, pp. 14-15 [Annex "1" of *this Comment*]) **Executive Order No. 41 cannot be treated as both the source of the question and conclusive proof of Tago's answer.**

31. The official surveys point the other way. PLS-710, undertaken at Tago's instance, did not include the disputed area and recognized the national road as the boundary. CAD-392-D placed the parcel in Barangay Rosario, Tandag, with the road marked by the relevant municipal boundary monuments. (*Committee on Boundary Settlement Decision*, pp. 20-21 [*Annex "1" of this Comment*]) Tago offers no equally definite, authenticated pre-1967 technical description that locates the disputed parcel within the former municipality of Tago.
32. Indeed, the 1883 archival materials appended to that paper concern the transfer of the town of Tago to Laguna; they do not provide metes and bounds for the 309.1530-hectare parcel. (*Annexes of Annex "G" of the Amended Petition*, pp. 15-22])
33. **Tago's interpretation would effectively convert a general clause in Executive Order No. 41 into a judicial award of a specifically surveyed parcel without competent proof that the parcel fell within that clause.** Neither the text of the executive order nor *Municipality of Nueva Era* supports that result.

IV

JOINT RESOLUTION NO. 4 AND RESOLUTION NO. 88-81 DO NOT ESTABLISH TAGO'S CLAIM OR OVERRIDE THE OFFICIAL SURVEY RECORDS.

34. Petitioner relies on Joint Resolution No. 4 of 1919, which Resolution No. 88-81 states was adopted by the municipal councils of Tandag and Tago "**as alleged**". Nevertheless, the RTC found that no original, certified, authenticated, or otherwise reliable copy of the source instrument was satisfactorily presented before the SP. More importantly, neither the reported Joint Resolution nor the Amended Petition proves that the landmarks mentioned therein encompass the disputed 309.1530 hectares. (*RTC Decision*, p. 5 [*Annex "A" of the Amended Petition*].)
35. The reported description cannot, by itself, locate the boundary on the ground. Its references to an existing road, Cambating Mountain, and the direction of flowing waters contain no coordinates, courses, distances, monument calls, or parcel identifiers connecting them to CAD-392-D, Case 4, Parcel 1.

The decisive issue is therefore not merely whether Joint Resolution No. 4 existed, but whether Petitioner reliably identified the landmarks mentioned therein. Petitioner failed to do so.

36. Resolution No. 88-81 itself confirms the uncertainty surrounding those landmarks. Tandag identified the hill and short road invoked by Tago as being in Lacadon, Barangay Rosario; distinguished that location from Cambating proper; and referred to another route beginning near Kilometer 6. These competing identifications demonstrate why the reported historical description requires technical corroboration and cannot prevail, standing alone, over the official survey records. (*Resolution No. 88-81, Annex "L" of Petitioner's Position Paper dated February 14, 2005, forming part of Annex "G" of the Amended Petition.*)
37. Petitioner likewise misconstrues Resolution No. 88-81 as an admission. Although Tandag stated that it did "not dispute the existence" of Executive Order No. 41 and the Joint Resolution "as alleged", it expressly rejected Tago's identification of the landmarks. It declared that **"the mountain referred to is not at all Cambating mountains"**; identified "the particular place referred to" as **"Bagsak, Kinabutan, Lacadon, Rosario"**; and maintained that the location was **"not sitio Cambating but Sitio Lacadon of Rosario, Tandag"**. The Resolution ultimately urged the Sangguniang Panlalawigan to recognize the crossing of the national highway as the boundary. (*Id.*)
38. Read as a whole, Resolution No. 88-81 was an assertion of Tandag's territorial position, not a concession to Tago. Its qualified acknowledgment of the reported existence of the historical instruments did not admit that Tago correctly identified the landmarks or that the disputed parcel belonged to it. Petitioner cannot isolate that acknowledgment from the Resolution's express rejection of Tago's territorial claim.
39. Tandag has likewise maintained a consistent position. From Resolution No. 88-81 through its subsequent submissions, Tandag has asserted that Tago incorrectly identified the historical landmarks and failed to establish that the disputed parcel formed part of the territory separated under Executive Order No. 41. Tandag's reliance on the official survey and governmental records is therefore not inconsistent with its earlier position.

40. Equitable estoppel does not apply. Tago identifies no representation by Tandag that the disputed parcel belonged to it, no reasonable reliance upon such representation, and no resulting prejudice. Resolution No. 88-81 was adopted precisely to oppose Tago's claim; it was not an assurance or concession upon which Tago could reasonably rely. Estoppel cannot transform a qualified acknowledgment of a document's reported existence into an admission of a boundary expressly disputed by Tandag.
41. Finally, neither Joint Resolution No. 4 nor Resolution No. 88-81 could, by itself, create, enlarge, or transfer territory beyond the territorial separation effected by Executive Order No. 41. Local resolutions may serve as historical evidence, but they cannot independently transfer territory between local government units. The SP and the RTC therefore correctly considered them together with—and not in substitution of—CAD-392-D, PLS-710, and the other official technical records.

V

TAGO MISAPPLIES THE CRITICAL-DATE DOCTRINE AND THE CASE OF *MUNICIPALITY OF MAKATI v. MUNICIPALITY OF TAGUIG*.

42. ***Municipality of Makati v. Municipality of Taguig, G.R. No. 235316, December 1, 2021***, defines the critical date as the point when the territorial dispute crystallized. Acts undertaken after that date to bolster a claim receive little or no weight unless they are a normal continuation of prior conduct and not contrived to improve a litigating position.
43. Tago equates its creation in 1918 with the crystallization of a boundary dispute. **The two events are not the same.** Executive Order No. 41 reorganized Tago as an independent municipality; it did not record a dispute over the present 309.1530-hectare parcel. Tago's own Amended Petition alleges that the municipalities thereafter exercised jurisdiction under an agreed boundary and that the controversy emerged later. (*Amended Petition, pars. 9-13, 51-53; pp. 3, 11*)
44. Nor does ***Municipality of Makati v. Municipality of Taguig*** establish a categorical rule that every cadastral survey prepared

after the creation of an LGU is devoid of probative value. There, the Court discounted a numerical cadastral survey approved in 1994—after the 1990 critical date and after the territorial case had commenced in 1993—because the circumstances indicated it had been drawn to improve Makati’s litigating position. Tago identifies no comparable proof that CAD-392-D was prepared by Tandag after litigation began or manipulated to improve a pending claim.

45. The 1967 cadastral map’s annotation “*claimed by the Municipality of Tago*” does not compel the opposite conclusion. It shows that a competing claim had been recorded by the time the map was approved; it does not establish the claim’s legal or factual validity. As the RTC explained, the annotation acknowledges a claim but does not decide it. (*RTC Decision*, p. 6 [*Annex “A” of the Amended Petition*]) The notation also shows that the surveying authority preserved, rather than concealed, Tago’s objection while completing the official technical survey.
46. Even assuming that the competing claim recorded in CAD-392-D marked the crystallization of the dispute in 1967, the cadastre itself was contemporaneous with that development. Although PLS-710 was completed in 1972, it was undertaken at Tago’s own instance and is independently probative because it reflects the territorial extent claimed and surveyed for Tago, rather than a unilateral post-dispute act prepared by Tandag to improve its litigating position.
47. Thus, neither CAD-392-D nor PLS-710 is the type of self-serving, post-dispute evidence rejected in *Municipality of Makati v. Municipality of Taguig*. Tago’s reliance on the critical-date doctrine is therefore misplaced and does not diminish the probative value of these official technical surveys.

VI

THE CONCURRENT FINDINGS OF THE SP AND THE RTC ARE SUPPORTED BY THE RECORD, AND TAGO HAS SHOWN NO REVERSIBLE ERROR.

48. Sections 118 and 119 of the Local Government Code vest the sangguniang panlalawigan with original authority to settle a boundary dispute between municipalities within the same province and allow an aggrieved party to appeal its decision to the proper Regional Trial Court. A judgment rendered by the

RTC in the exercise of that appellate jurisdiction may, in turn, be reviewed by this Honorable Court through a petition for review under Rule 42. (*Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, G.R. No. 169435, February 27, 2008.) The availability of further review, however, does not relieve Tago of the burden of identifying a material error of fact or law that warrants reversal of the RTC's judgment.

49. The Court may review questions of fact and law under Rule 42. Nevertheless, the consistent findings of the SP and the RTC should not be displaced merely by preferring Tago's interpretation of isolated historical references. The SP considered the parties' competing historical and technical evidence and located the parcel using CAD-392-D, PLS-710, and the municipal boundary monuments along the national road. The RTC independently reviewed Tago's objections and affirmed. The Order denying reconsideration found that Tago merely repeated the same attacks on the alleged Joint Resolution and the official technical records. (*RTC Order, [Annex "B" of the Amended Petition]*)
50. Even under the preponderance-of-evidence standard invoked by the parties and applied by the Committee, Tago failed to establish that the disputed 309.1530 hectares formed part of the territory separated from Tandag under Executive Order No. 41. **Its three (3) assigned errors ask the Court to prefer derivative historical references and local administrative acts over the official surveys, without identifying a controlling law or authenticated technical instrument that includes the parcel within Tago.** The Amended Petition therefore shows no arbitrariness, material misapprehension of the record, or error of law warranting reversal.
51. The omitted Committee Decision and Supplemental Position Paper confirm, rather than change, the basis of the judgment under review. They show that Tandag raised its decisive objections before the administrative proceedings at the SP, that the SP resolved them through express findings, and that the RTC reviewed the same evidentiary framework. Their inclusion therefore gives the Court the complete context omitted from petitioner's annexes and negates any claim that the challenged rulings rested on grounds not litigated below.
52. The RTC's judgment should be affirmed—**Executive Order No. 41 does not locate the disputed parcel; the reported 1919 description lacks a competent technical correlation to it;**

Resolution No. 88-81, read in full, disputes rather than concedes Tago's geographic theory; the critical-date doctrine does not erase the 1967 survey; and the official cadastral and public-land survey records support the determination that the parcel lies in Barangay Rosario, Tandag.

53. Accordingly, Tago has shown no factual or legal basis to disturb the concurrent findings of the SP and the RTC. The Amended Petition merely reargues matters already considered and resolved upon competent evidence and should therefore be denied for lack of merit.

PRAYER

WHEREFORE, Respondent **CITY OF TANDAG** respectfully prays that the Amended Petition for Review be **DENIED DUE COURSE** and **DISMISSED**; or, alternatively, **DENIED for lack of merit**, and that the Decision dated April 15, 2026 and Order dated May 19, 2026 of the Regional Trial Court in Civil Case No. 2041-24, affirming Sangguniang Panlalawigan Resolution No. 1557-24, be **AFFIRMED in toto**.

Respondent likewise prays for such other relief as may be just and equitable.

Tandag City, Surigao del Sur for Cagayan de Oro City, Philippines,
August 13, 2026.

CITY LEGAL OFFICE

Counsel for Respondent
Tandag City Hall, Barangay Awasian,
Tandag City, Surigao del Sur, Philippines

By:

ATTY. JANISSA P. DELICONA

City Legal Officer

Counsel for Respondent City of Tandag

City Legal Office, Tandag City Hall,

Barangay Awasian, Tandag City, Surigao del Sur

PTR No. 0635234 – 01.05.26/Tandag City, Surigao del Sur

IBP OR No. INV 558953 (CY 2026) – 11.15.2025/IBP Surigao del Sur

Roll of Attorneys No. 59996

MCLE Compliance No. VIII-0042063 – 04.14.2028

Email address: issadelicona@yahoo.com

Tel. No. 214-5679

EXPLANATION AS TO MODE OF SERVICE

The original of this Comment is being filed with this Honorable Court, and a copy thereof is being served upon counsel for Petitioner, by registered mail pursuant to Rule 13 of the Rules of Court. Personal filing with this Honorable Court and personal service upon Petitioner's counsel were not practicable because the Court is in Cagayan de Oro City, Petitioner's counsel is in Makati City, and the undersigned counsel holds office in Tandag City, Surigao del Sur. An electronic copy is likewise being transmitted to the Court's designated electronic-filing address in compliance with the Court of Appeals' electronic-copy requirements. Courtesy copies are being personally furnished to the Regional Trial Court, Branch 40, and the Office of the Sangguniang Panlalawigan of Surigao del Sur.

The corresponding registry receipts and Affidavit of Filing and Service are attached hereto as proof of filing and service.

ATTY. JANISSA P. DELICONA

COPY FURNISHED:

ATTY. KRISTINE R. FERRER

Counsel for Petitioner

FORTUN NARVASA & SALAZAR

23rd Floor, Multinational Bancorporation Centre

6805 Ayala Avenue, Makati City 1226

By registered mail

REGIONAL TRIAL COURT, BRANCH 40

Hall of Justice, Quezon Street

corner H. Serra Street, Barangay Bongtud

Tandag City, Surigao del Sur

By personal service (courtesy copy)

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

Province of Surigao del Sur

2nd Floor, Legislative Building,

Capitol Hills, Barangay Telaje,

Tandag City, Surigao del Sur

By personal service (courtesy copy)

REPUBLIC OF THE PHILIPPINES
CITY OF TANDAG

AFFIDAVIT OF FILING AND SERVICE

I, **REGINE ATAGUE VILLAMOR**, of legal age, Filipino, and a resident of Tandag City, Surigao del Sur, under oath, state that:

1. I am an employee of the City Government of Tandag and a staff of the City Legal Office, with office address at the City Legal Office, Tandag City Hall, Barangay Awasian, Tandag City, Surigao del Sur;
2. On August 13, 2026, I served copies of **“COMMENT (For Respondent City of Tandag)”** in **CA-G.R. SP No. 13631-MIN**, entitled **“Municipality of Tago v. Municipality of Tandag (now City of Tandag)”** before the **COURT OF APPEALS, Cagayan de Oro City**, in the following manner:

2.1 FILING WITH THE COURT

COURT OF APPEALS–MINDANAO STATION

Cagayan de Oro City

By Registered Mail, as evidenced by Registry Receipt No. _____ issued Tandag City Post Office on August 13, 2026 which is attached to the original copy thereof. I attest that postage thereon has been fully pre-paid, and contains instructions to the postmaster to return the mail to the Office after ten (10) days if undelivered.

2.2 SERVICE UPON COUNSEL FOR PETITIONER

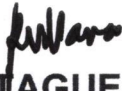
ATTY. KRISTINE R. FERRER
Counsel for Petitioner
FORTUN NARVASA & SALAZAR
23rd Floor, Multinational Bancorporation Centre
6805 Ayala Avenue, Makati City 1226

By Registered Mail, as evidenced by Registry Receipt No. _____ issued Tandag City Post Office on August 13, 2026 which is attached to the original copy

thereof. I attest that postage thereon has been fully pre-paid, and contains instructions to the postmaster to return the mail to the Office after ten (10) days if undelivered.

3. I execute this Affidavit to attest to the truth of the foregoing facts and as proof of the filing of the “**COMMENT (For Respondent City of Tandag)**” with the Honorable Court and service of a copy thereof upon counsel for Petitioner.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of August, 2026 at Tandag City, Surigao del Sur, Philippines.


REGINE ATAGUE VILLAMOR

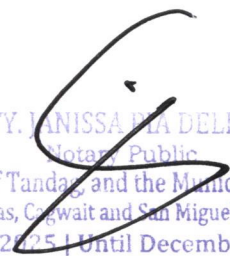
Affiant

National ID No. 2845-0894-1527-3820

Issued on April 15, 2023

SUBSCRIBED AND SWORN to before me this 13th day of August 2026 at Tandag City, Surigao del Sur, Philippines, affiant personally appearing and exhibiting to me her National Identification card reflected above, as competent evidence of her identity.

Doc. No. 304 ;
Page No. 62 ;
Book No. VI ;
Series of 2026.


ATTY. JANISSA DELICONA
Notary Public
For the City of Tandag and the Municipalities of Cortes
Tago, Bayabas, Cogwail and San Miguel Surigao del Sur
SDS-78-2025 | Until December 31, 2027
Roll of Attorneys No. 59996 - March 22, 2012
PTT No. 0635234 - January 5, 2026/Tandag City, Surigao del Sur
IBP OR No. 558953 (CY 2026) - November 14, 2025
MCLE Compliance No. VHF -0042063 | Valid until April 14, 2028

VERIFIED DECLARATION

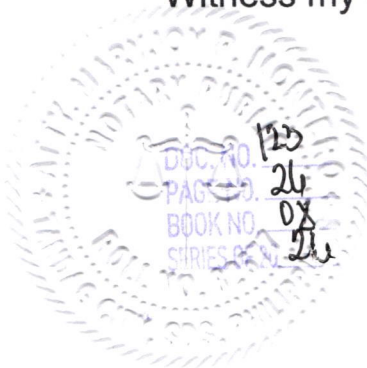
I, **ATTY. JANISSA PIA DELICONA**, hereby declare that the documents hereto submitted electronically in accordance with the Guidelines on Submission of Electronic Copies of Pleadings and other Court Submissions being filed before the Court of Appeals are complete and true copies of the documents (and accompanying documents) filed through mail in the Court of Appeals, Philippines.

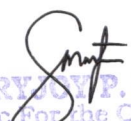

ATTY. JANISSA PIA DELICONA

City Legal Officer
Counsel for Respondent
August 13, 2026

SUBSCRIBED AND SWORN TO before me this 13th day of August 2026 in Tandag City, Surigao del Sur, affiant personally known to me to be the same person executing this Verified Declaration.

Witness my hand on the date and place above written.




ATTY. MARY JOY P. MONTERO
Notary Public for the City of Tandag
and the Municipalities of Cortes, Tago
San Miguel, Bayabas and Cagwait, Surigao del Sur
Notarial Commission No. SDS-89-2025
Effective January 19, 2026 Until December 31, 2027
ROLL NO. 82577 May 30, 2022
IBP OR INV 560062 November 20, 2025 (SY 2026)
PTR Number 2049844 January 5, 2026
MCLE Compliance No. VII-0027637 valid until April 14, 2028



Republic of the Philippines
PROVINCE OF SURIGAO DEL SUR
Tandag City



TANGGAPAN NG SANGGUNIANG PANLALAWIGAN
(Office of the Provincial Council)

REPORT
COMMITTEE ON BOUNDARY SETTLEMENT
DECEMBER 12, 2023

ANNEX "1"

CERTIFIED MACHINE COPY

Roselyn A. Fabiosa
ROSELYN A. FABIOSA
Administrative Officer V
Tanggapan ng Sangguniang Panlalawigan
Capitol Hills, Tandag City

Date: 8/11/24

RECALENDARER FOR ANOTHER COMMITTEE MEETING:

Boundary dispute between Tandag City and Tago, Surigao del Sur.

RECOMMENDATION:

After a careful and thorough review of the case, it was recommended that the written decision of the Committee on the matter will be calendared in Second Reading.

[Signature]
HON. ANTONIO C. AZARCON
Chairman

[Signature]
HON. CONRAD C. CEJOCO
Vice Chairman

[Signature]
HON. JOSE DUMAGAN, JR.
Member

[Signature]
HON. GINES RICKY J. SAYAWAN, SR.
Member

[Signature]
HON. MANUEL O. ALAMEDA, SR.
Vice Governor/Member

EXPANDED COMMITTEE MEMBERS:

[Signature]
HON. RUEL D. MOMO
SP Member

HON. AMADO M. LAYNO, JR.
SP Member

[Signature]
HON. ANTHONY JOSEPH P. CAÑEDO
SP Member

HON. RAUL K. SALAZAR
SP Member

HON. VALERIO T. MONTESCLAROS, JR.
SP Member

HON. JOHN PAUL C. PIMENTEL
SP Member

[Signature]
HON. MELANIE JOY M. GUNO
SP Member

[Signature]
HON. YURI ART EUFY R. SANCHEZ
SP Member

ASCG(report_12-12-23)



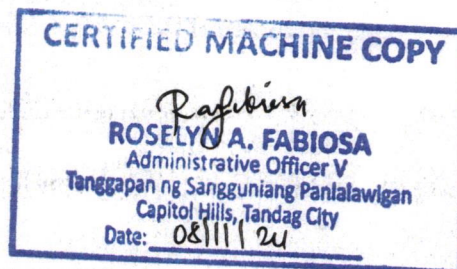
Republic of the Philippines
PROVINCE OF SURIGAO DEL SUR
Tandag City



OFFICE OF THE SANGGUNANG PANLALAWIGAN

COMMITTEE ON BOUNDARY SETTLEMENT

IN THE MATTER OF
SETTLEMENT OF MUNICIPAL
BOUNDARY DISPUTE
BETWEEN THE
MUNICIPALITIES OF TAGO
AND TANDAG (now City of
Tandag), THIS PROVINCE



MUNICIPALITY OF TAGO
Petitioner,

versus

MUNICIPALITY OF TANDAG
now the **CITY OF TANDAG**
Respondent.

X-----/

RESOLUTION

Pursuant to Paragraph (b), Section 118 of the Republic Act No. 7160 or the Local Government Code of 1991, it provides that "boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the sangguniang panlalawigan concerned.

Therefore, this resolves the Municipal Boundary Dispute between the Municipality of Tago and Municipality of Tandag, now Tandag City, filed before the Tanggapan ng Sangguniang Panlalawigan of the Province of Surigao del Sur.

ELEANOR P. MOMO
3-05-2024

MARIA TERESA R. RAMOS
3-05-2024

Rafelbios
ROSELYN A. FABIOSA
 Administrative Officer V
 Tanggapan ng Sangguniang Panlalawigan
 Capitol Hills, Tandag City
 Date: 08/11/24

THE ANTECEDENTS

On MARCH 7, 2006, the Municipality of Tago (Tago for brevity) filed a Petition before the Tanggapan ng Sangguniang Panlalawigan of the Province of Surigao del Sur against the Municipality of Tandag, now Tandag City (Tandag for brevity), for the settlement of the Municipal Boundary between Tago and Tandag.

The subject of the petition is a parcel of land containing an aggregate area of 309.1530 hectares being claimed by Barangay Victoria, Tago against Barangay Rosario, Tandag.

Tago averred, among others, that the disputed area is part of its territory because of the alleged Joint Resolution No. 4, Series of 1919 dated January 11, 1919 adopted by the Municipal Council of Tago and Tandag which fixed the boundary line dividing the two municipalities.

Tandag, on the other hand, denied that there is a boundary dispute between Tandag and Tago. Tandag alleged that the land subject of this dispute is part of Tandag.

On March 15, 2007, Republic Act No. 9392 converted the Municipality of Tandag into a component city.

The present Sangguniang Panlalawigan members find it best that after two (2) decades, the boundary dispute between Tandag and Tago be finally resolved. The body called the officials of the two local government units with high hopes to amicably settle the boundary dispute. Tandag, through their Chief Executive, manifested their willingness to enter into an amicable settlement over this dispute. Tago, however, through their Chief Executive, manifested that they were not. Hence, this decision.

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 the 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 local government unit must be spelled out in metes and bounds, with technical description.¹

Version of Tago

Tago's claim can be summarized as follows:



Tago existed way back in 1865 under the Maura Law of the Spanish regime for a brief period of three (3) years and after which, it was reverted to its status as a barrio of Tandag. Years later, Tago reacquired its status as a municipality, as evidenced by a transcript of a decree issued by the Direccion General de Administracion Civil de las Islas Filipinas dated August 29, 1883. The same transcript granted the transfer of the town site from what was known as Daan Lungsod to its present location then called during the Spanish era as Laguna.²

On March 10, 1917, Republic Act No. 2711 or also known as the Revised Administrative Code of 1917 was enacted. Section 38, Chapter 2, Article II of the same Code listed Tago as among the municipalities under the Province of Surigao.³

By virtue of RA 2711, Governor-General Francis Burton Harrison issued Executive Order No. 41 on November 6, 1918 separating the Tago from Tandag and reorganizing the former into an independent municipality.⁴

¹ Largo, DB, 2010, The Essentials of Local Government Law in the Philippines, p. 58-59 citing Mariano v. COMELEC, 242 SCRA 211 (1995).

² Please see the Spanish Transcript and its English Translation marked as Annex "B".

³ Republic Act No. 2711

⁴ Please see E.O. 41 marked as Annex "C".

Rafelina
ROSELYN A. FABIOSA
 Administrative Officer V
 Tanggapan ng Sangguniang Panlalawigan
 Capitol Hills, Tandag City
 Date: 08/11/24

Executive Order No. 41 specifically provides, to wit:

Whereas many of the inhabitants of the former municipality of Tago have petitioned that the same be separated from the present municipality of Tandag, Province of Surigao, and reorganized into an independent municipality;

Now, therefore, pursuant to the provision of section sixty-eight of the Revised Administrative Code, the nine municipalities of the Province of Surigao as established by section thirty-eight of the said Administrative Code are hereby increased to ten by separating the former Municipality of Tago from the present Municipality of Tandag, and reorganizing the same into an independent municipality.

The municipality of Tandag shall consist of its present territory less the territory comprised of the former municipality of Tago. The municipality of Tago shall consist of the territory comprised in the former municipality of Tago.

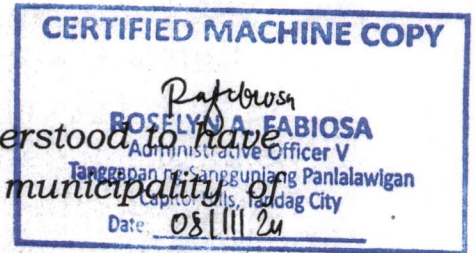
The organization herein made shall take effect on January first, nineteen hundred and nineteen.

FRANCIS BURTON HARRISON

Tago alleged that ten days after its constitution as a separate municipality, or on 11 January 1919, the Joint Resolution No. 4, Series of 1919 was adopted by the Municipal Council of Tago and Municipal Council of Tandag which allegedly states:

"[T]hat the fixed boundary line dividing the municipalities of Tandag and Tago shall be, as already fixed and established, the existing road, situated at the very boundaries of Tandag and Tago which leads to Cambating mountain, and that all waters that falls from the top of main mountain to the side of Tandag are hereby understood to have fallen within the territorial area of the municipality of Tandag, and those that falls

in the side of Tago are also hereby understood to have fallen with the territorial area of the municipality of Tago".



Tago likewise alleged that in 1963, the Provincial Governor Recaredo B. Castillo presided over a session of the Provincial Board which confirmed and recognized the same boundary line fixed and establish in Joint Resolution No. 4, Series of 1919.

On January 5, 1981, the Sangguniang Bayan of Tago adopted the aforesaid boundary line through the Sangguniang Bayan Resolution No. 2-81.

Tago claimed that some landholdings found within the territory in dispute have been declared and realty taxes thereto were assessed and paid in the treasury of Tago.

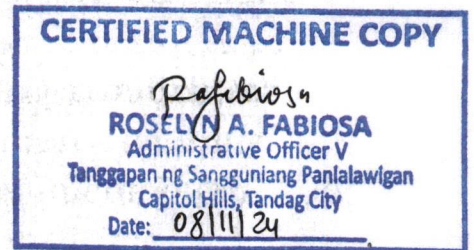
Tago added that the existing old building of Surigao del Sur Polytechnic State College (SSPSC), now North Eastern Mindanao State University⁵ (NEMSU for brevity), which stands in the heart of the disputed territory was constructed by virtue of the Building Permit issued by the Municipality of Tago.

Lastly, Tago cited Republic Act No. 8139 entitled "An Act Establishing a National Science High School in the Capital Town of Tandag, Province of Surigao del Sur, to be known as Tandag National Science High School, and Appropriating Funds Therefor" recognized that the existing school campus of SSPSC, now NEMSU, is located within Barangay Governor Adela Serra Ty of Tago, Surigao del Sur.

Tago, however, conceded that the final computation of the aggregate territorial area of Tago is still pending for consideration or finalization at the Land Management Bureau, Regional Office XIII, Butuan City.

⁵ Republic Act No. 11584, July 30, 2021.

Version of Tandag



Tandag's claim can be summarized as follows:

In 1609, the conquistador who arrived in Tandag constructed an inequilaterally-formed stonefort, a military garrison, to strengthen their conquest of the locals. This caused the Northeastern portion of Mindanao to be raised to the status of a province. This "distrito" was called "Provincia de Caraga" with Tandag as the capital.

At the turn of the 20th Century, the "Provincia de Caraga" was changed to "Provincia de Surigao".

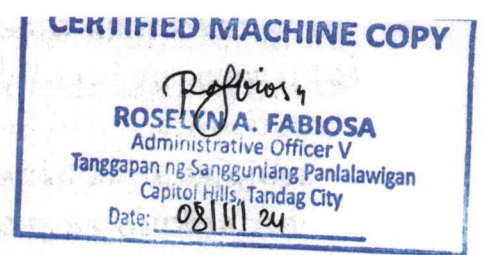
Under the Administrative Code of 1917, Tago was already listed among the municipalities of the undivided Province of Surigao. However, the petitioner did not cite a law or statute creating the said municipality.

On November 6, 1918, pursuant to Section 68 of RA 2711, Tago was separated from Tandag as an independent municipality.

On June 19, 1960, by virtue of RA 2786, Surigao was divided into two provinces: Surigao del Norte and Surigao del Sur. Likewise, Agusan became Agusan del Norte and Agusan del Sur upon the signing of RA 4979. What was called as "Provincia de Caraga" of 1609 was finally subdivided into five provinces with Butuan and Surigao as their prime cities.

In 1962, at the instance of Tago, the Public Land Survey (PLS for brevity) over its territorial jurisdiction was conducted. Notably, the PLS did not include the contested area subject of this boundary dispute, and the national road was the boundary between Tandag and Tago as reflected in the approved Tago Public Land Subdivision, PLS-710 dated October 30, 1972.

On November 6, 1967, the Boundary and Index Map of Tandag Cadastre, Cad. 392-D, Case 4, Parcel 1 was approved. The same Boundary and Index Map indicated that the boundary dividing the municipalities of Tandag and Tago is the existing national road, delineated on the ground MBM's 2-A, 3-A and 4-A.



Tandag claimed that the two duly approved maps showed no overlapping of description in the municipal boundary monuments (MBM's). The respective land area of petitioner and respondent remains to be clearly identified.

On the other hand, Tandag cited laws and statutes which referenced the Municipality of Tandag as the site of an educational institution namely: Republic Act No. 7377 dated April 10, 1992, Republic Act No. 7508 dated May 18, 1992, Republic Act No. 8628 dated April 23, 1998, and Republic Act No. 9998 dated July 27, 2009, quoted as follows:

a. **Section 1 of Republic Act No. 7377:** The Bukidnon State College Extension Center in the Municipality of Tandag, Province of Surigao del Sur, is hereby converted into a Polytechnic College, to be known as the Surigao del Sur Polytechnic College, X x x **The Surigao del Sur Polytechnic College shall have its main campus and seat of administration in the Municipality of Tandag, Province of Surigao del Sur.**

b. **Section 1 of Republic Act No. 7509:** **The name of the Bukidnon State College External Studies Center in the Municipality of Tandag, Province of Surigao del Sur,** is hereby changed to Surigao del Sur State College.

c. **Section 1 of Republic Act No. 8628:** The present Surigao del Sur Polytechnic College located in Tandag, Surigao del Sur, with its four branch schools, namely: SSPC Tarvia at San Miguel, SSPC Cagwait, SSPC Lianga and SSPC Tagbina Surigao del Sur, is hereby converted into a chartered college to be known as the Surigao del Sur Polytechnic State College (SSPSC), hereinafter referred to as the State College, **with Tandag as the State College proper.**

d. **Section 1 of Republic Act No. 9998:** The Surigao del Sur Polytechnic State College in the Province of Surigao del Sur, composed of SSPSC - Tandag Campus

in the Municipality of Tandag, X x x **The main campus of the University shall be in Tandag, Surigao del Sur.**

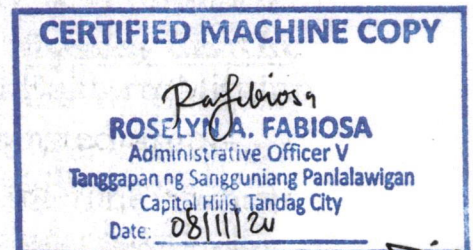
The state university is now known as North Eastern Mindanao University as is found in the heart of the disputed area.

ISSUE

Whether or not the Three Million Ninety-One Thousand Five Hundred Thirty (3,091,530) Square Meters disputed area belongs to the Municipality of Tandag, now City of Tandag or to the Municipality of Tago.

OUR RULING

We rule in favor of Tandag.



In ruling, the august body considered the following:

- a. The pieces of evidence submitted by the Petitioner failed to show by preponderance of evidence that the 309.1530 hectares are located within the territorial jurisdiction of Tago;
- b. The pieces of evidence such as the cadastral survey and public land survey shows that Tandag exercised acts of dominion over the 309.1530 hectares parcel of land; and
- c. Contemporaneous acts of lawful authorities establish that Tandag has jurisdiction over the subject 309.1530 hectares parcel of land.

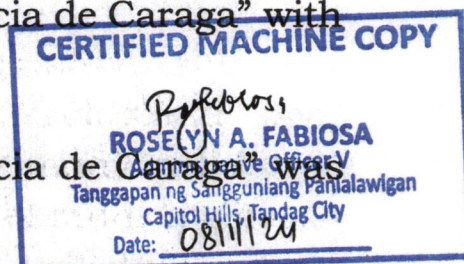
On the other hand, we find that Tago failed to adduce preponderance of evidence to prove their claim.

In resolving the boundary dispute between Tandag and Tago, the body revisited the laws creating the two municipalities or the appurtenant laws regarding the creation of municipalities.

The undisputed facts, however, can be summarized as follows:

In 1609, the conquistador who arrived in Tandag constructed an inequilaterally-formed stonefort, a military garrison, to strengthen their conquest of the locals. This caused the Northeastern portion of Mindanao to be raised to the status of a province. This "distrito" was called "Provincia de Caraga" with Tandag as the capital.

At the turn of the 20th Century, the "Provincia de Caraga" was changed to "Provincia de Surigao".



Tago, on the other hand, existed way back in 1865 under the Maura Law of the Spanish regime for a brief period of three (3) years. After which, it was reverted to its status as a barrio of Tandag. Years later, Tago reacquired its status as a municipality as evidenced by a transcript of a Decree issued by the Direccion General de Administracion Civil de las Islas Filipinas dated August 29, 1883. The same transcript granted the transfer of the town site from what was known as Daan Lungsod to its present location then called during the Spanish era as Laguna.⁶

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.⁷

On March 10, 1917, Republic Act No. 2711 or also known as the Revised Administrative Code of 1917 was enacted. Section 38, Chapter 2, Article II of the same Code listed Tago as among the municipalities under the Province of Surigao.⁸

⁶ Please see the Spanish Transcript and its English Translation marked as Annex "B".

⁷ Municipality of Makati v. Municipality of Taguig, G.R. No. 235316, December 1, 2021.

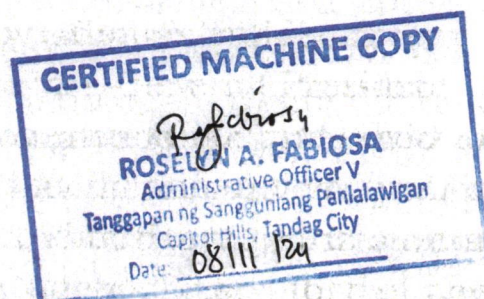
⁸ Republic Act No. 2711.

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.

By virtue of RA 2711, Governor-General Francis Burton Harrison issued Executive Order No. 41 on November 6, 1918 separating Tago from Tandag, and reorganizing the former into an independent municipality.⁹

⁹ Please see E.O. 41 marked as Annex "C".



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Administrative Officer V

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Executive Order No. 41 specifically provides, to wit:

Whereas many of the inhabitants of the former municipality of Tago have petitioned that the same be separated from the present municipality of Tandag, Province of Surigao, and reorganized into an independent municipality;

Now, therefore, pursuant to the provision of section sixty eight of the Revised Administrative Code, the nine municipalities of the Province of Surigao as established by section thirty-eight of the said Administrative Code are hereby increased to ten by separating the former municipality of Tago from the present Municipality of Tandag, and reorganizing the same into an independent municipality.

The municipality of Tandag shall consist of its present territory less the territory comprised of the former municipality of Tago. The municipality of Tago shall consist of the territory comprised in the former municipality of Tago.

The organization herein made shall take effect on January first, nineteen hundred and nineteen.

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."¹⁰

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

¹⁰ Supra Note 6.

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."¹¹

In the case of ***Municipality of Sogod v. Judge Rosal***¹², the Supreme Court Ruled that:

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

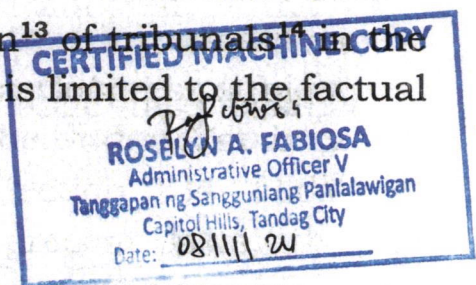
Hence, under present laws, the function¹³ of tribunals¹⁴ in the adjudication of LGU boundary disputes is limited to the factual

¹¹ *Id.*

¹² 278 Phil. 642 (1991).

¹³ In default of an amicable settlement between the disputing LGUs, when the *sanggunian* is required to formally try the case and render a decision. Rule III, Article 17 of the Implementing Rules and Regulations of the Local Government Code. See also *Municipality of Sta. Fe v. Municipality of Aritao*, 560 Phil. 57 (2007).

¹⁴ Original jurisdiction over LGU boundary disputes is vested in the proper *sanggunian*, in accordance with Section 118 of the Local Government Code; while appellate jurisdiction is vested in the Regional Trial Courts, subject to review on appeal by the Court of Appeals. See 1 Dante B. Gatmaytan, *Local Government Law and Jurisprudence* 581-587; *Municipality of Bakun, Benguet v. Municipality of Sugpon, Ilocos Sur*, G.R. No. 224335, March 2, 2020; *Municipality of Pateros v. Court of Appeals*, 607 Phil. 104 (2009); *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, 570 Phil. 395 (2008); *Municipality of Sta. Fe v. Municipality of Aritao*, *supra*.



determination of the correct boundary line in accordance with the statutes creating the LGUs involved.

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ROSELYN FARIOSA
Administrative Officer V
Tanggapan ng Sangguniang Panlalawigan
Capital Hills, Tandag City
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As applied to the herein pending case, such task ultimately involves the determination of the monuments which mark the true and accurate boundary between Tandag and Tago, in accordance with the charters of both municipalities. Unfortunately, the charter of Tago as shown in Executive Order No. 41 only states:

The municipality of Tandag shall consist of its present territory less the territory comprised of the former municipality of Tago. The municipality of Tago shall consist of the territory comprised in the former municipality of Tago.

Tago, unfortunately, did not provide the exact boundaries that comprised the former municipality of Tago. Instead, it alleged that Tandag and Tago executed Joint Resolution No. 4, Series of 1919 dated January 11, 1919, adopted by both Municipal Councils, which fixed the boundary line dividing the two municipalities.

When Tandag was converted into a component city by virtue of Republic Act No. 9392 dated March 15, 2007, the provision of the conversion merely stated, to wit:

SEC. 2. *The City of Tandag.* — The Municipality of Tandag shall be converted into a component city to be known as the City of Tandag, hereinafter referred to as the City, which shall comprise the present territory of the Municipality of Tandag, Province of Surigao del Sur. The territorial jurisdiction of the City shall be within the present metes and bounds of the Municipality of Tandag.

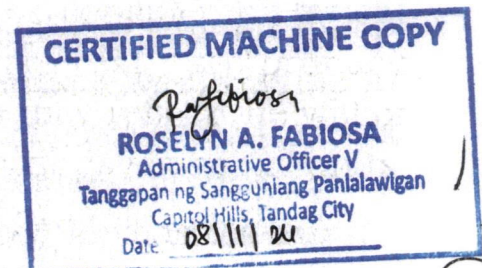
The foregoing provision shall be without prejudice to the resolution by the appropriate agency or forum of existing boundary disputes or cases involving questions of territorial jurisdiction between the City of Tandag and the adjoining local government units: *Provided, That*

the territorial jurisdiction of the disputed area or areas shall remain with the local government unit, which has existing administrative supervision over said area or areas until the final resolution of the case.

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 the Congress *vis-a-vis* the limits of the local government units' territorial jurisdiction.

The problem in this case is that no point in the charters of both Tandag and Tago, and the subsequent conversion of Tandag to a component city were their territorial limits expressed in metes and bounds. Be that as it may, what is, however, clear is that the Municipality of Tago originated from the Municipality of Tandag.

I. BURDEN OF PROOF LIES WITH MUNICIPALITY OF TAGO



It is a basic rule that he who alleges must prove what is alleged.¹⁵

Section 1 of Rule 131 of A.M. No. 19-08-15-SC provides:

Section 1. Burden of proof and burden of evidence. - Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law. Burden of proof never shifts.

The test for determining where the burden of proof lies is to ask which party to an action or suit will fail if he offers no evidence competent to show the facts averred as the basis for the relief he seeks to obtain. The burden of proof rests with the party who

¹⁵ Nikko Hotel Manila Garden v. Reyes, 452 SCRA 532; Acabal v. Acabal, 454 SCRA 555.

Rose A. Fabiosa
ROSE A. FABIOSA
 Administrative Officer V

Tanggapan ng Sangguniang Panlalawigan

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 Date: 08/11/20

wants to establish a legal right in their favor. If he claims a right granted by law, he must prove his claim by competent evidence, relying on the strength of his own evidence and not upon the weakness of that of his opponent.¹⁶

In this case, the burden of proof lies with Tago since it is an undisputed fact that Tago originated from Tandag. Hence, it is incumbent upon the municipality of Tago to adduce by preponderance of evidence that the disputed 309.1530 hectares is within their territorial jurisdiction based on the charter that created Tago or other evidence to prove their claim.

Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other.¹⁷ It means evidence which is more convincing to the courts as worthy of belief than that which is offered in opposition thereto.¹⁸

In other words, preponderance of evidence, in the final analysis, means probability of truth.¹⁹ It is that evidence which is more convincing to the Court as worthier of belief than that which is offered in opposition thereto.²⁰

In this case, Tago heavily relied on the alleged Joint Resolution No. 4 Series of 1919, adopted on January 11, 1919²¹ which accordingly states:

"That the fixed boundary line dividing the municipalities of Tandag and Tago shall be, as already fixed and established, the existing road, situated at the very boundaries of Tandag and Tago, which leads to Cambating mountain, and that all waters that falls from the top of main mountain to the side of Tandag are hereby understood to have fallen within the territorial

¹⁶ Riano, W., 2009, Evidence - The Bar Lecture Series, p. 407 citing China Banking Corporation v. Ta Fa Industries Inc., GR No. 160113, April 30, 2008.

¹⁷ Habagat Grill v. DMC-Urban Property Developer, Inc., 454 SCRA 653; Bank of the Philippine Islands v. Reyes, GR No. 157177, February 11, 2008.

¹⁸ Republic v. Bautista, GR No. 169801, September 11, 2007.

¹⁹ Tan, Jr. v. Hosana, 780 Phil. 258-272 (2016).

²⁰ BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistics Systems, Inc., 805 Phil. 244-246 (2017).

²¹ Position Paper for the Petitioner dated 14 February 2005, p. 7.

area of the municipality of Tandag, and those that falls in the side of Tago are also hereby understood to have fallen with the territorial area of municipality of Tago.

Tago likewise alleged that in 1963, then Provincial Governor Recaredo B. Castillo presided over the session of the Provincial Board in which the body categorically confirmed and recognized the same boundary line that was fixed and established in Joint Resolution No. 4, Series of 1919.

To support the aforementioned allegation, Tago only presented Resolution No. 2-81 dated January 5, 1981.

A mere allegation is not evidence, he who alleges has the burden of proving his allegation with the requisite quantum of evidence.²² In this case, Tago did not present Joint Resolution No. 4 Series of 1919. Tago, likewise, did not present any proof of the alleged 1963 session of the Provincial Board presided by Provincial Governor Recaredo B. Castillo.

Resolution No. 2-81 dated January 5, 1981 of Sangguniang Bayan of Tago has no probative value and appears to be an amendment of the law creating the municipality of Tago based on the following grounds:

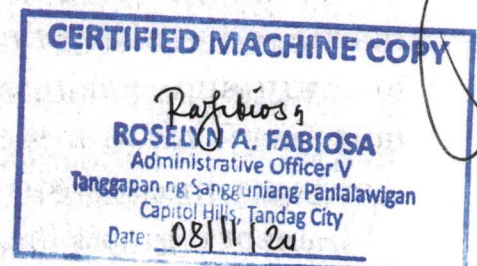
- a. Critical date doctrine;
- b. Hearsay evidence; and
- c. Violation of the 1973 Constitution.

"Critical Date Doctrine"

Worth emphasizing is the fact that the Sangguniang Bayan of Tago passed Resolution No. 2-81 dated January 5, 1981 in response to Resolution No. 58-80 of the Sangguniang Bayan of Tandag. The former described Resolution No. 58-80 of the Sangguniang Bayan of Tandag as ridiculous, very big joke and belittles the conscience, dignity and wisdom of the members of the Sangguniang Panlalawigan.²³

²² *Clado-Reyes v. Limpe*, GR No. 163876, July 9, 2008.

²³ Paragraph 6 of Annex "K" of Resolution No. 2-81.



In the case of ***Municipality of Makati v. Taguig***²⁴, the Supreme Court applied the "critical date" doctrine from the public international law. It is 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 normal continuation of prior acts and not undertaken merely to improve their legal position.

In this case, we can fix the critical date in the year 1980 when the alleged investigation of the Sangguniang Panlalawigan took place. At that moment, both parties were put on notice regarding their contending claims over the disputed areas, and that led to the alleged passage of Resolution No. 58-80 of Tandag, Resolution No. 2-81 of Tago, and so on and so forth.

Applying the "critical date doctrine," the resolutions passed by both contending local government units from 1980 up to the present are accorded little to no probative value.

"Hearsay Evidence"

Resolution No. 2-81 dated January 5, 1981 of Sangguniang Bayan of Tago is considered a hearsay evidence.

Worth emphasizing is the fact that the Sangguniang Bayan of Tago cited in Resolution No. 2-81 the Joint Resolution No. 4 Series of 1919 without presenting proof of its existence. Not only that, not one of the members of the Sangguniang Bayan of Tago who passed Resolution No. 2-81 were present when Joint Resolution No. 4 Series of 1919 was passed.

None among the members of the Sangguniang Bayan of Tago in 1981 are competent to testify on the veracity of the contents of Joint Resolution No. 4 Series of 1919 as none of them prepared

²⁴ GR No. 235316, December 1, 2021 citing *Indonesia v. Malaysia*, Sovereignty over Pulau Ligitan and Pulau Sipadan, Judgment, ICJ Reports 2002, p.682, para. 135.

the said Joint Resolution in 1919. Tago also did not present any evidence from the concerned government agency regarding its existence.

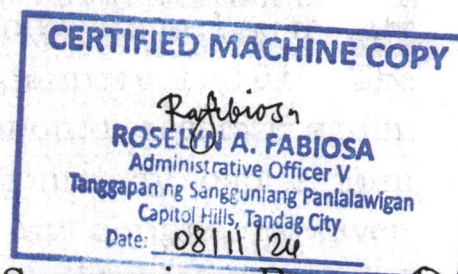
It is well entrenched that a witness may only testify on facts derived from his own perception and not on what he has merely learned or heard from others.²⁵ Hearsay evidence, or those derived outside of a witness' personal knowledge, are generally inadmissible due to serious concerns on their trustworthiness and reliability; such evidence, by their nature, are not given under oath or solemn affirmation and likewise have not undergone the benefit of cross-examination to test the reliability of the out-of-court declarant on which the relative weight of the out-of-court statement depends.²⁶

Worst, there is even serious doubt as to the existence of the January 11, 1919 Joint Resolution No. 4, Series of 1919. It must be noted that the organization of Tago as a new municipality of Surigao took effect on January 1, 1919. The implication of this subject Joint Resolution suggests that ten (10) days thereafter, Tago and Tandag already had a joint session and agreed on its specific metes and bounds. However, who were the officials of Tago then? Where did the joint session take place? These are questions which cannot be addressed as no one has personal knowledge on the existence of the Joint Resolution.

It is likewise hard to believe that ten days after the organization of Tago, the officials were already busy delineating the boundary instead of organizing the municipality.

Violation of the 1973 Constitution

When the Resolution No. 2-81 by the Sangguniang Bayan of Tago was passed, the prevailing Constitution was the 1973 Constitution.



²⁵ *Miro v. Vda. de Erederos*, 721 Phil. 772, 790 (2013).

²⁶ *Country Bankers Insurance Corp. v. Lianga Bay & Community Multi-Purpose Cooperative, Inc.*, 425 Phil. 511, 520 (2002).

Article XI Section 3 of the 1973 provides:

SEC. 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.

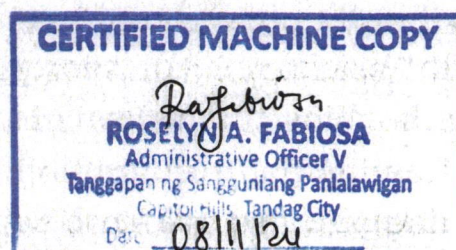
Tandag has been firm on its stand that there is no boundary dispute since there is no technical description on the law creating the Municipality of Tago. Hence, the passage of Resolution No. 2-81 by the Sangguniang Bayan of Tago contravenes the provisions of the 1973 Constitution. Tago unilaterally set a boundary that substantially altered the territory of Tandag without the approval by a majority of the votes cast in a plebiscite by the local government affected.

In resolving boundary disputes, the duty of the Sangguniang Panlalawigan 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.

As held in ***Pelaez v. Auditor General***²⁷, the power of provincial boards to settle boundary disputes is "of an administrative nature - involving, as it does, the adoption of means and ways to carry into effect the law creating said municipalities." It is a power "to fix common boundary, in order to avoid or settle conflicts of jurisdiction between adjoining municipalities." It is thus limited to implementing the law creating a municipality. It is obvious that any alteration of boundaries that is not in accordance with the law creating a municipality is not the carrying into effect of that law but its amendment.

Therefore, Resolution No. 2-81 by the Sangguniang Bayan of Tago cannot be used as a basis in the determination of the boundary of the Municipality of Tago.

²⁷ 122 Phil 965.



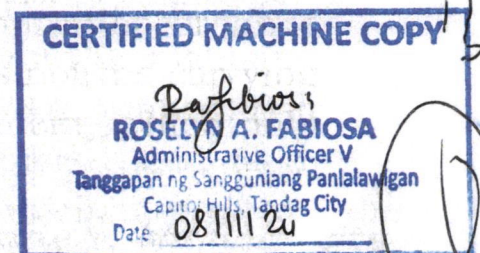
In ***Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte***²⁸, the Supreme Court ruled:

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.

Tago cannot alter nor set boundaries by mere presentation of Resolution No. 2-81 by the Sangguniang Bayan of Tago. Since Tago originated from Tandag, it is incumbent upon Tago to present evidence that the 309.1530 hectares is included in their territorial jurisdiction in accordance with the law creating the said municipality.

II. CADASTRAL AND PUBLIC LAND SURVEY SHOWS TANDAG EXERCISED ACTS OF DOMINION OVER THE 309.1530 HECTARES



The Sangguniang Panlalawigan sitting as a quasi-judicial body is vested with jurisdiction to resolve boundary disputes, and can take judicial notice of the official acts of the legislative, executive and judicial branches of the government, and take them into account in resolving the boundary dispute, regardless if they were raised by the parties.

Significant surveys involving the disputed 309.1530 hectares were made, to wit:

- a. Tago Public Land Survey (PLS for brevity) conducted sometime in 1962 at the instance of Tago and was approved on October 30, 1972 is limited only up to the National Highway

²⁸ *Municipality of Nueva Era, Ilocos Norte v. Municipality of Marcos, Ilocos Norte*, 570 Phil. 395-420 (2008).

Paglalabas
ROSELIN A. FABIOSA
 Administrative Officer V

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separating Tandag and Tago, the boundary claimed by Tandag.

It is worth observing that the lot numbers in the approved PLS which is within the territory of Tago is different from the lot numbers in the Cadastral survey of Tandag. Hence, an indication of two different territories.

b. Boundary and Index Map of Tandag Cadastre, Cad. 392-D, Case 4, Parcel 1 was surveyed between December 16, 1965-June 16, 1967 and approved on November 6, 1967. The said map indicated that the 309.1530 hectares is situated in the Municipality of Tandag particularly in Barangay Rosario but the annotation on the map states, claimed by the Municipality of Tago. Notably, the national road that Tandag is claiming to be the boundary is marked as MBM 4-A, MBM 3-A, MBM 2-A and MBM 1-A.

The records of the Department of Environment and Natural Resources clearly indicates that the **Boundary and Index Map of Tandag Cadastre, Cad. 392-D, Case 4, Parcel 1 is situated in the Municipality of Tandag particularly in Barangay Rosario.**

A careful perusal of the cadastral map and public land survey would reveal that the National Highway draws the line between the municipality of Tandag and Tago at some point. A line that according to Tandag is the boundary between the two municipalities. It would be incongruent if this line brought by the National Highway will be simply set aside because Tago asserts another boundary. In the absence of a clear and unequivocal law that points the exact boundary between Tandag and Tago, the assertions of Tandag should be given credence since Tago originates from Tandag.

The aforementioned surveys were prepared and approved prior to the critical date or year, which this body set in 1980. Common sense dictates that when Tago commissioned surveyors for the public land survey in 1962, they should have included the 309.1530 hectares as part of the territorial jurisdiction of Tago. But clearly, they did not. This is an indication that the cadastral survey correctly referred to the disputed area as part of Barangay Rosario, Tandag.

Roselyn A. Fabiosa
ROSELYN A. FABIOSA
 Administrative Officer V
 Tanggapan ng Sangguniang Panlalawigan
 Capitol Hills, Tandag City
 Date: 08/11/24

On the other hand, Tago presented tax declarations that some of the land holdings found within the territory in dispute have been declared and realty taxes thereto were assessed and paid in the treasury of Tago. Tago used the word some because other land holdings were declared and realty taxes were paid in the treasury of Tandag.

Equally telling is the fact that the certification from the office of the Provincial Assessor²⁹ which states, to wit:

This is to certify that per official records of this office, the herein attached Certified Xerox copy of Tax Declarations was previously declared in the Municipality of Tago, Surigao del Sur and was subsequently transferred in the Municipality of Tandag, same province by virtue of the approved survey of CAD-392-D, Tandag Cadastre.

The certification bolsters the fact that it is the cadastral survey that prevails over the erroneous location indicated in the tax declaration.

In ***Barangay Sangalang v. Barangay Maguihan***³⁰, this Court held that in the absence of any evidence, cadastral survey maps duly approved by the Director of Lands prevail over tax declarations and provincial assessor's certification stating that the disputed area is under a particular LGU's jurisdiction.

III. CONTEMPORANEOUS ACTS OF LAWFUL AUTHORITIES

Tago only cited Republic Act No. 8139 as the law or statute wherein the disputed area was being mentioned as part of Tago. Republic Act No. 8139 entitled "An Act Establishing a National Science High School in the Capital Town of Tandag, Province of Surigao del Sur, to be known as Tandag National Science High School, and Appropriating Funds Therefor" recognized that the

²⁹ Annex "I" for the Plaintiff.

³⁰ 623 Phil. 711 (2009).

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ROSELYN A. FABIOSA
 Administrative Officer V
 Tanggapan ng Sangguniang Panlalawigan
 Capitol Hills, Tandag City

Date: 08/11/24

existing school campus of SSPSC, now NEMSU, is located within Barangay Governor Adela Serra Ty of Tago, Surigao del Sur.

The said law, however, has inconsistent provisions. For instance, it is entitled as "An Act Establishing a National Science High School in the Capital Town of Tandag, Province of Surigao del Sur, to be known as Tandag National Science High School, and Appropriating Funds Therefor" but section 2 of the said law states that the school shall be situated within the eight hectare campus of the Surigao del Sur Polytechnic College in Barangay Governor Adela Serra Ty of Tago, Surigao del Sur. It must be emphasized, however, that there is no Barangay Governor Adela Serra Ty in Tago, Surigao del Sur.

Meanwhile, there are laws and statutes referencing the Municipality of Tandag as the site of an educational institution namely Republic Act No. 7377 dated April 10, 1992, Republic Act No. 7508 dated May 18, 1992, Republic Act No. 8628 dated April 23, 1998 and Republic Act No. 9998 dated July 27, 2009, quoted as follows:

a. **Section 1 of Republic Act No. 7377** : The Bukidnon State College Extension Center in the Municipality of Tandag, Province of Surigao del Sur, is hereby converted into a Polytechnic College, to be known as the Surigao del Sur Polytechnic College, X x x **The Surigao del Sur Polytechnic College shall have its main campus and seat of administration in the Municipality of Tandag, Province of Surigao del Sur.**

b. **Section 1 of Republic Act No. 7509** : **The name of the Bukidnon State College External Studies Center in the Municipality of Tandag, Province of Surigao del Sur,** is hereby changed to Surigao del Sur State College.

c. **Section 1 of Republic Act No. 8628** : The present Surigao del Sur Polytechnic College located in Tandag, Surigao del Sur, with its four branch schools, namely : SSPC Tarvia at San Miguel, SSPC Cagwait, SSPC Lianga

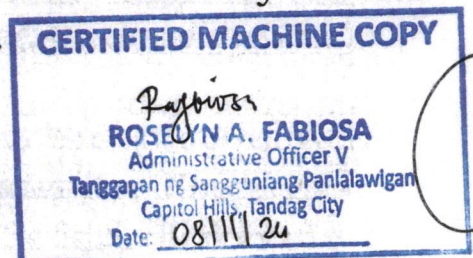
and SSPC Tagbina Surigao del Sur, is hereby converted into a chartered college to be known as the Surigao del Sur Polytechnic State College (SSPSC), hereinafter referred to as the State College, **with Tandag as the State College proper.**

d. **Section 1 of Republic Act No. 9998** : The Surigao del Sur Polytechnic State College in the Province of Surigao del Sur, composed of SSPSC - Tandag Campus in the Municipality of Tandag, X x x **The main campus of the University shall be in Tandag, Surigao del Sur.**

In rebutting the claim of Tandag that the state university situated in the disputed area, now known as North Eastern Mindanao State University³¹ is within the jurisdiction of Tago, the latter merely presented the application of building permit by Surigao del Sur Polytechnic College.

Based on the foregoing, laws passed in favor of Tandag preponderates in terms of probative value than the building permit presented by Tago. Clearly, the greater weight of evidence consisting in contemporaneous acts by lawful authorities favor the position of Tandag.

CONCLUSION



Executive Order No. 41 of then Francis Burton Harrison, the Governor General of the Philippines states that :

The municipality of Tandag shall consist of its present territory less the territory comprised of the former municipality of Tago. The municipality of Tago shall consist of the territory comprised in the former municipality of Tago.

Therefore, there is no dispute that the area subject of this boundary dispute forms part of the Municipality of Tandag.

³¹ Supra Note 5.

Hence, it is incumbent upon Tago to prove that the former Municipality of Tago, includes the disputed area.

Jurisprudence illustrates that in boundary dispute adjudication, tribunals must weigh and interpret the evidence presented in a manner which gives full effect to, and is most consistent with, the statute or statutes creating the LGU's involved in the dispute.³²

In this boundary dispute case, Tago did not provide preponderant evidence to resolve this controversy in their favor. The provisions of Executive Order No. 41 is a vague and inadequate basis to conclude that the disputed area is part of Tago. Instead, the aforementioned provisions is a conclusive presumption that the disputed area is within the territory of Tandag in the absence of law or evidence making it part of Tago.

WHEREFORE, in view of the foregoing, the 309.1530 hectares land described in the Boundary and Index Map of Tandag Cadastre, Cad. 392-D, Case 4, Parcel 1 is part of Barangay Rosario, Tandag City.

SO ORDERED.

December 12, 2023, Tandag City, Surigao del Sur.

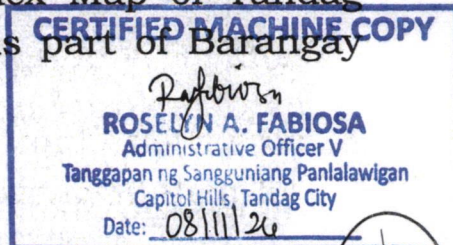
HON. ANTONIO C. AZARCON
Chairman

HON. CONRAD C. CEJOCO
Vice Chairman

HON. JOSE DUMAGAN, JR.
Member

HON. GINES RICKY J. SAYAWAN, SR.
Member

HON. MANUEL Q. ALAMEDA, SR.
Vice Governor/Member



³² Municipality of Isabel v. Municipality of Merida, GR No. 216092, December 9, 2020.

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Tandag City

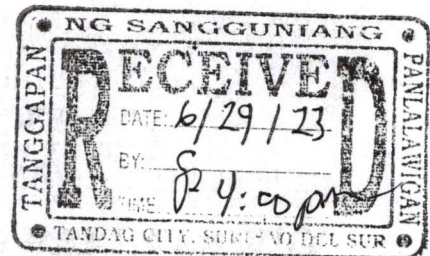
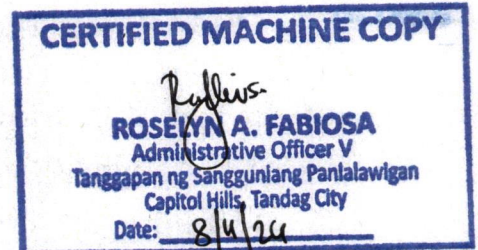
TANGGAPAN NG SANGGUNANG PANLALAWIGAN
Office of the Provincial Council

**IN THE MATTER OF SETTLEMENT
OF MUNICIPAL BOUNDARY
DISPUTE BETWEEN THE
MUNICIPALITIES OF TAGO AND
TANDAG (NOW, CITY OF TANDAG),
THIS PROVINCE**

MUNICIPALITY OF TAGO,
Petitioner,

**MUNICIPALITY OF TANDAG
(NOW, CITY OF
TANDAG),**
Respondent.

X-----X



SUPPLEMENTAL POSITION PAPER

RESPONDENT Municipality of Tandag (now, City of Tandag),
represented by the undersigned Mayor, to this Honorable Office,
most respectfully submits this **Supplemental Position Paper**
in support of its Petition, as follows:

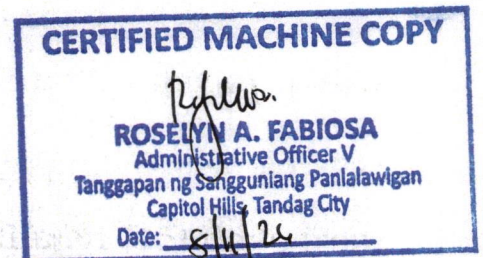
TIMELINESS OF SUBMISSION

1. Respondent received the Order from the Honorable Office dated June 6, 2023 on June 14, 2023 directing the filing of additional evidences, pleadings, and other documents to

supplement/support its claim within fifteen (15) days from receipt of the said Order;

2. Thus, the deadline for the submission of this Supplemental Position Paper is on June 29, 2023, which falls on a Thursday.

THE CASE



This is a nineteen-year-old boundary dispute case between the **Municipalities of Tago and Tandag (now, City of Tandag)**. Filed in 2004, Petitioner claimed the entire **THREE HUNDRED NINE (309) hectares** as allegedly "*an integral part of the territory of the Municipality of Tago, based on historical accounts of reliable sources.*" On the other hand, Respondent maintained that there is in fact no boundary dispute between the two (2) municipalities, taking into consideration the absence of a law creating the Municipality of Tago, or a technical description of boundaries, geographic coordinates of corners or points that defines the territorial jurisdiction of Municipality of Tago.

As will be shown hereunder, the aforesaid allegations and claims are baseless and unfounded. Hence, the Petition must be dismissed for utter lack of merit and material evidence/s.

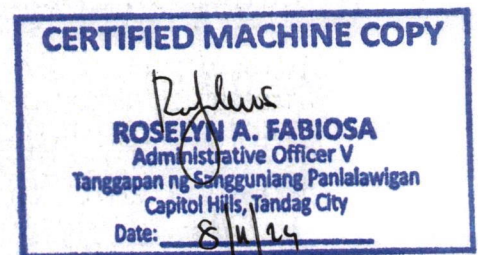
BRIEF STATEMENT OF FACTS

The Sangguniang Bayan (SB) of Tago passed Resolution No. 161, series of 2004 dated October 14, 2004, requesting the

Sangguniang Panlalawigan of Surigao del Sur to settle the raging boundary dispute between the municipalities of Tago and Tandag. On February 14, 2005, and March 29 and June 20, 2005, the municipalities of Tago and Tandag respectively submitted its Position Papers.

In an Order of the Tanggapan ng Sangguniang Panlalawigan (TSP) - Committee on Boundary Settlement, duly signed by its Chairperson Atty. Antonio C. Azarcon, dated June 6, 2023, which was received by Respondent on June 14, 2023, the parties are directed to submit additional evidences, pleadings, and other documents to supplement/support the parties' respective claims within fifteen (15) days from receipt of the said Order. Hence, this pleading.

ISSUE/S

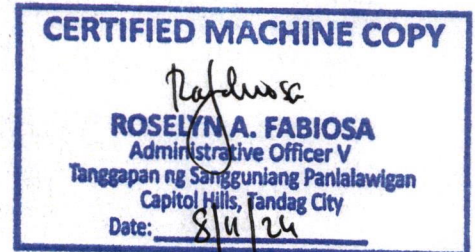


I. WHETHER OR NOT THERE IS A BOUNDARY DISPUTE BETWEEN THE PARTIES

Discussions/Arguments

**IN THE ABSENCE OF A LAW
CREATING THE
MUNICIPALITY OF TAGO,
MUCH LESS A TECHNICAL
DESCRIPTION OF
BOUNDARIES, GEOGRAPHIC
COORDINATES OF CORNERS
OR POINTS DEFINING THE**

**TERRITORIAL JURISDICTION
OF MUNICIPALITY OF TAGO,
THERE CAN BE NO ACTUAL,
TRUE AND ACCURATE
BOUNDARY BETWEEN THE
MUNICIPALITIES OF TAGO
AND THE TANDAG (NOW,
CITY OF TANDAG).**

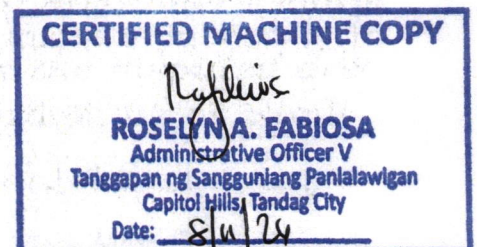


1. Petitioner, in this case, is claiming territorial jurisdiction over the entire **THREE HUNDRED NINE (309) HECTARES** representing the disputed area/territory as belonging to, and part of the territory of the Municipality of Tago, Province of Surigao del Sur, based on **historical accounts of reliable sources**, to wit:
 - 1.1 **Article II, Section 38 of the Revised Administrative Code of 1917 (Act No. 2711)** dated **March 10, 1917** which listed Tago as one of the municipalities of the Province of Surigao; and,
 - 1.2 **Executive Order (EO) No. 41** issued by Governor General Francis Burton Harris dated **November 6, 1918** which reorganized and separated Tago into an independent municipality from that of its mother municipality, Tandag;
2. It must be noted however that both **Act No. 2711 and EO No. 41 contain neither a technical description of**

boundary lines, nor geographic coordinates of corners or points that would otherwise actually and legally define the territorial jurisdiction of the Municipality of Tago;

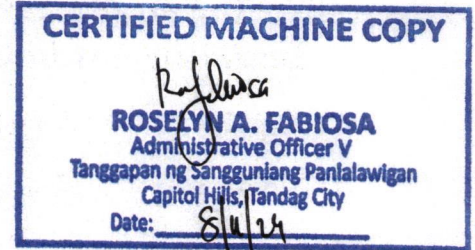
3. The absence of bearings and distances of boundary lines connecting the points in the disputed area clearly shows that **no actual survey has been conducted** purposely to define the boundary lines of the Municipality of Tago from the Municipality of Tandag (now, City of Tandag);
4. As such, the only logical conclusion would be that there is no actual, true and accurate boundary between the Municipalities of Tago and the Tandag (now, City of Tandag) since the filing of this case with this Honorable Office up to this date. ***For what would the basis of Petitioner's claim of jurisdiction and/or territory over the disputed area be, absent its technical description?***

II. ASSUMING ARGUENDO THAT THERE IS A BOUNDARY DISPUTE, WHETHER OR NOT THE DISPUTED AREA CONTAINING 309 HEACTARES BELONG TO THE PETITIONER



Discussions/Arguments

**THE DISPUTED AREA CONTAINING
AN AREA OF 309 HECTARES DO
NOT BELONG TO PETITIONER.**



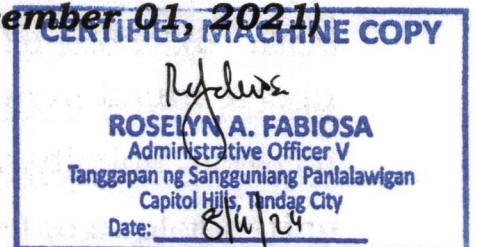
5. At the outset, let it be known that the actual dispute in this case is limited to **Barangay Rosario, Tandag and Barangay Victoria, Tago;**
6. The High Court has been consistent in its rulings on **the primacy of the municipal charter in the resolution of boundary dispute cases.**

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-a-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.

As held in *Pelaez v. Auditor General*, the power of provincial boards to settle boundary disputes is "of an administrative

nature - involving, as it does, the adoption of means and ways to carry into effect the law creating said municipalities." It is a power "to fix common boundary, in order to avoid or settle conflicts of jurisdiction between adjoining municipalities." It is thus limited to implementing the law creating a municipality. It is obvious that any alteration of boundaries that is not in accordance with the law creating a municipality is not the carrying into effect of that law but its amendment. ***(Municipality Of Makati (Now City Of Makati) Vs. Municipality Of Taguig (Now City Of Taguig), G.R. No. 235316. December 01, 2021)***

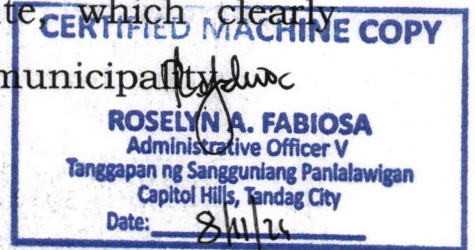


7. In this case, Petitioner failed to present evidence to prove ownership, jurisdiction and territory over the disputed area, taking into consideration the **absence of a law creating it**, the **historical evidences** presented, **cadastral and public land subdivision project** submitted, and the **contemporaneous acts of lawful authorities**, as follows:

As regards Absence of Law Creating the Municipality of Tago

- 7.1 Respondent re-pleads paragraphs 1 to 4 of this Supplemental Position Paper;
- 7.2 To reiterate, the absence of a law defining the territorial jurisdiction or boundaries of the Municipality of Tago, Petitioner clearly has no legal basis in claiming

jurisdiction over the area in dispute which clearly belongs to Respondent as the mother municipality.



As regards Historical Evidences And Survey Maps,

7.3 Let it be known that the Boundary and Index Map of Tandag Cadastre, Cad. 392-D, Case 4, Parcel 1 was approved on **November 6, 1967**, while Tago Public Land Subdivision, Pls 710 was approved on **October 30, 1972**;

7.3.1 It is interesting to note however, that:

7.3.1.1 **Pls-710 was conducted at the instance of the municipality of Tago in 1962**
(See Annex "N" of Petitioner's Position Paper);

7.3.1.2 **Pls-710 was initiated ahead of the cadastral survey of Tandag in 1965;**
and,

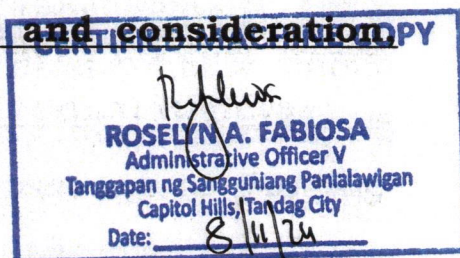
7.3.1.3 **The land area surveyed for Tago in Pls-710 is only up to the crossing (National Highway);**

7.3.2 A question can then be posed, **"Why was the Public Land Subdivision Survey (Pls) for the municipality of Tago, which was initiated**

ahead of the cadastral survey of Tandag, limited only to the side of the road leading to Gamut, or the National Highway?

7.3.3 The answer can only be because, Petitioner, at that time, acceded and acquiesced that the known boundary between the two municipalities is **the center line of the National Highway;**

7.4 As regards **Joint Resolution No. 4, series of 1919**, allegedly adopted by the municipal councils of Tago and Tandag, **the fact that no such document has been attached to the petition, much less presented as evidence, any and all allegations and/or claims stated thereat deserve scant attention and consideration, and unreliable;**

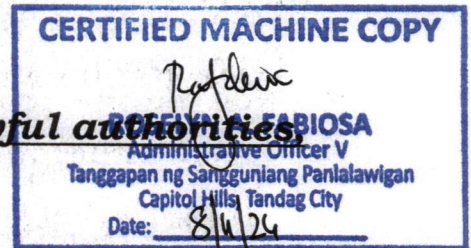


7.4.1 Even assuming there is such a copy, the very existence of Cambating mountain whose water will fall from the top of the mountain is in question, as there is now, no sign of Cambating mountain with water falling from it;

7.5 Further, no copy of the minutes of the session in 1963 presided over by Provincial Governor Recaredo B. Castillo was presented, which allegedly confirmed and recognized the boundary line fixed and established in Joint

Resolution No. 4, series of 1919. Such absence clearly negates any confirmation and recognition of the alleged boundary line, and that any and all allegations and/or claims stated thereat deserve scant consideration;

As regards contemporaneous acts of lawful authorities,



7.6 Several laws and statutes were consequently issued, repeatedly referencing the then Municipality of Tandag as the site of an educational institution, including **Republic Act No. 7377** dated April 10, 1992, **Republic Act No. 7508** dated May 18, 1992, **Republic Act No. 8628** dated April 23, 1998, and **Republic Act No. 9998** dated July 27, 2009, quoted as follows:

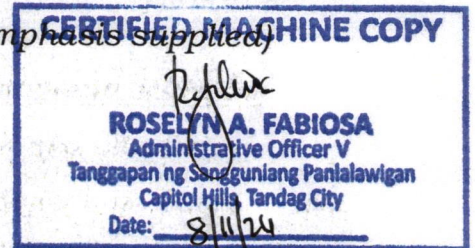
7.6.1 **SECTION 1, RA 7377.** *The Bukidnon State College Extension Center in the Municipality of Tandag, Province of Surigao del Sur, is hereby converted into a polytechnic college, to be known as the Surigao del Sur Polytechnic College, XXX The Surigao del Sur Polytechnic College shall have its main campus and seat of administration in the Municipality of Tandag, Province of Surigao del Sur. (Emphasis supplied)*

7.6.2 **SECTION 1, RA 7509.** *The name of the Bukidnon State College External Studies Center in the Municipality of Tandag, Province of Surigao del Sur, is hereby changed to Surigao del Sur State College. (Emphasis supplied)*

7.6.3 **SECTION 1, RA 8628.** *The present Surigao del Sur Polytechnic College located in Tandag, Surigao del Sur, with its four branch schools, namely: SSPC Tarvia at*

*San Miguel, SSPC Cagwait, SSPC Lianga, and SSPC Tagbina, Surigao del Sur, is hereby converted into a chartered college to be known as the Surigao del Sur Polytechnic State College (SSPSC), hereinafter referred to as the State College, **with Tandag as the State College proper.** (Emphasis supplied)*

7.6.4 **SECTION 1, RA 9998. Conversion.** - The Surigao del Sur Polytechnic State College in the Province of Surigao del Sur, composed of SSPSC - Tandag Campus in the Municipality of Tandag, XXX **The main campus of the University shall be in Tandag, Surigao del Sur.** (Emphasis supplied)



7.6.5 Although the laws cited above do not directly fix the boundaries of Tago and Tandag, they reveal a common understanding on which local government unit exercised jurisdiction over the disputed areas – that is, **that the disputed areas are legislatively recognized as within the jurisdiction of Tandag, and not of Tago;**

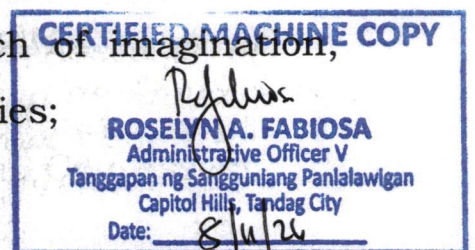
7.7 What is more pressing is the fact that the written certification of the Provincial Assessor dated February 14, 2005 (***Annex "I" of Petitioner's Position Paper***) certified the transfer of Tax Declarations previously declared in the Municipality of Tago to the Municipality of Tandag. This is a clear, relevant and competent evidence that **the disputed area legally belongs to the Municipality of Tandag, on the basis of the approved Tandag Cadastre;**

A copy of the Certification of the Provincial Assessor of the Province of Surigao del Sur, previously attached as Annex "I" in Petitioner's Petition, is hereto attached as **Annex "1"**.

- 7.8 In fact, the disputed area which still belongs to the Municipality of Tandag (now City of Tandag) has claimants duly registered in Tandag, as certified by the City Assessor. Clearly, **Petitioner's claim over the disputed area runs counter with the certification of the Provincial Assessor above-cited;**

A certified true copy of the Certification of the City Assessor of Tandag City is hereto attached as **Annex "2"**.

- 7.9 As regards the sworn statements of personalities attached in the Petition, in as much as they are **self-serving**, the same cannot supplant the declarations of the legislative branch. At any rate, these affidavits and testimonies do not, by any stretch of imagination, determine or fix territorial boundaries;



- 7.10 Moreover, this Court held that in the absence of any other evidence, **cadastral maps duly approved by the Director of Lands prevail over tax declarations XXX** stating that the disputed area is under a particular LGU's jurisdiction. Hence, **Tandag Cadastre duly approved by the Director of Lands on November 6, 1967 shall prevail over the voluminous Tax Declarations submitted by**

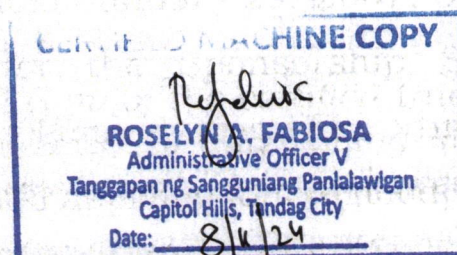
Petitioner; (Barangay Sangalang v. Barangay Maguihan, G.R. No. 159792, December 23, 2009)

7.11 In addition, the disputed area is included and has always been included in the Comprehensive Land Use Plan (CLUP) of Tandag since time immemorial. In the **Existing Zoning Plan (2007-2015)** and **Zoning Map (2021-2030)** of Tandag, the disputed area has Residential, Institutional, Agricultural and Commercial Land Uses;

*Due to paper size, a reduced copy of the certified true copies of the Existing Zoning Plan (2007-2015) and Zoning Map (2021-2030) of Tandag City are hereto attached as **Annexes "3" and "4"**.*

*A certified true copy of the same documents reflected in A3 paper is also attached as **Annexes "3-A" and "4-A"** for reference.*

7.12 This fact is corroborated in Senate Journal for Session No. 59 dated January 29, 2007, page 1239, which provides for the Sponsorship Speech of Senator Alfredo Lim during the time when Respondent was still applying for cityhood, where the land area of Tandag was **291.73km²**, as certified by the Land Management Bureau (LMB), which area includes the disputed area. The full text of the said journal can be digitally accessed at <https://legacy.senate.gov.ph/lisdata/72646166!.pdf>



A copy of the selected page/s of the Senate Journal is hereto attached as **Annex "5"**.

7.13 Moreover, Respondent registers its vehement objection and opposition to the following surveys conducted without the required **Survey Notification**, pursuant to Section 63 of DENR Memorandum Circular No. 2010 – 13 dated June 23, 2010, entitled, "*Adoption Of The Manual On Land Survey Procedures*" to wit:

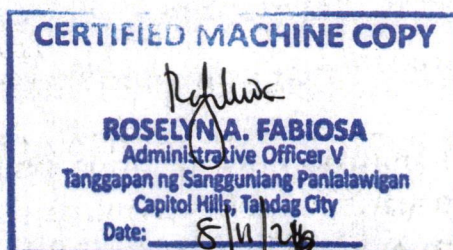
7.13.1 **Case/Barangay Boundary & Index Map of City of Tandag vs. Municipality of Tago, Case 28, Pb-13-00028-D;**

7.13.2 **Case/Barangay Boundary & Index Map of Barangay Rosario, Case 6, Pb-13-00028-D;**
and,

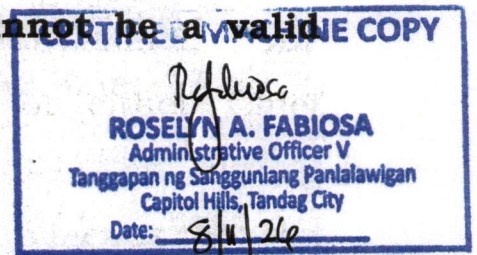
7.13.3 **Case/Barangay Boundary & Index Map of Barangay Victoria, Case 1, Pb-13-00038-D.**

*Due to paper size, a reduced copy of the certified true copies of Case/Barangay Boundary & Index Map of City of Tandag vs. Municipality of Tago, Case 28, Pb-13-00028-D, Case/Barangay Boundary & Index Map of Barangay Rosario, Case 6, Pb-13-00028-D and Case/Barangay Boundary & Index Map of Barangay Victoria, Case 1, Pb-13-00038-D are hereto attached as **Annexes "6", "7" and "8"**, respectively.*

*A certified true copy of the same documents reflected in blueprint is also attached as **Annexes "6-A", "7-A" and "8-A"** for reference.*



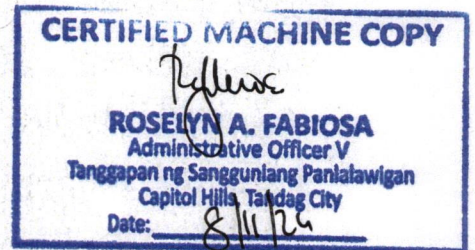
7.14 As can be gleaned from the aforementioned index maps, there are no signatures of either Chief Executives (Mayors) of the two LGUs, or Punong Barangays of the two barangays. This means that the surveys were not confirmed by the Mayors or the Punong Barangays, possibly either because they were conducted without the knowledge or without consent of either municipalities and/or barangays. Consequently, the above-enumerated boundary and index maps are **INVALID and cannot be a valid source of right for either parties;**



7.15 Furthermore, in as much as the Local Government Code requires barangay elective officials to be residents and registered voters of the barangays they wish to serve in, the fact that elective officials of Barangay Rosario reside in the disputed area, and that the legitimate residents of Barangay Rosario have not contested their qualifications to serve as elected officials of Barangay Rosario proves that the disputed area rightfully belongs to Respondent;

7.16 Hence, two conclusions are apparent. **First**, the 309 hectares land is within the territorial jurisdiction of the Municipality of Tandag as the mother municipality. **Second**, the 309 hectares land lay outside the jurisdiction of Municipality of Tago.

P R A Y E R



WHEREFORE, premises considered, it is respectfully prayed of this Honorable Office, that:

1. The Petition be **DISMISSED** for utter lack of merit and material evidence; and,
2. The technical description of the boundaries separating the two municipalities be proposed by Respondent (LGU-Tandag), being the mother municipality.

Other reliefs just and equitable under the premises are likewise prayed for.

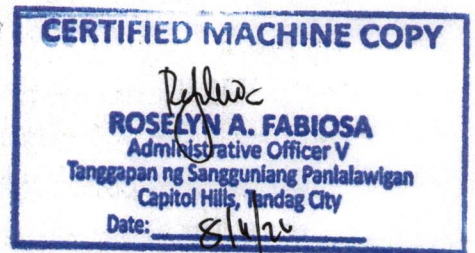
Tandag City, Surigao del Sur, Philippines. June 29, 2023.


ROXANNE C. PIMENTEL
City Mayor
Tandag City, Surigao del Sur

Copy furnished:

RE 712 723 328 77

HON. BETTY E. PIMENTEL
Municipal Mayor
Office of the Municipal Mayor
Tago, Surigao del Sur



VERIFICATION

I, **ROXANNE C. PIMENTEL**, of legal age, Filipino citizen, under oath state that:

1. I am the duly elected Mayor of the City of Tandag, and the Respondent in the above-entitled case;
2. I have caused the preparation and filing of the foregoing Position Paper;
3. I have read the contents and allegations therein; and,
4. I affirm them as true and correct based on my own personal knowledge, and based on authentic records.

IN WITNESS WHEREOF, I hereunto affixed my signature this 29th day of June, 2023 at Tandag City, Surigao del Sur, Philippines.


ROXANNE C. PIMENTEL
Affiant

SUBSCRIBED AND SWORN to before me this 29th day of June, 2023 in Tandag City, affiant personally know to the undersigned, and exhibited to me her Philippine Passport No. P0432193C, for the purpose of further establishing her personal identity.

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