

94 Phil. 949

[G.R. No. L-6765. May 12, 1954]

FULGENCIO VEGA AND LEON GELLADA, PLAINTIFFS AND APPELLEES, VS. THE MUNICIPAL BOARD OF THE CITY OF ILOILO ET AL., ETC., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CONCEPCION, J.:

This is an action for a declaratory relief (under Rule 66 of the Rules of Court) to test the validity of Municipal Ordinance No. 35 of the City of Iloilo, enacted on July 12, 1951, which provides:

“SECTION 1. No motor vehicle, whether for public or private use, with the exception of those owned and operated by the Republic of the Philippines, the Provinces of Iloilo, Capiz and Antique, and the municipalities thereto appertaining, the City of Iloilo, and those new motor vehicles offered for sale by dealers, but not used for transportation purposes by such dealers, shall use any street, road or high- way within the territorial limits of the City of Iloilo without being provided with certificate issued by the Traffic Division of the Police Department of this City, stating that said vehicle has been inspected by said Traffic Division, and found to be provided with safe brakes and appurtenances making the use of the same travel worthy and safe for passengers and pedestrians alike. The certificate shall be attached or posted in a conspicuous place in the corresponding motor vehicle, preferably on the windshield glass facing the front.

“SECTION 2. All owners and/or operators of the motor vehicles herein-above mentioned must submit his motor vehicles for

inspection by the Traffic Division of the Police Department of this City within ten days upon acquisition of the same from the original owner, and within the period from January 1 to February 28, and from July 1 to August 30 of each year if the same has previously been inspected and certified to be travel worthy by said Traffic Division.

“SECTION

3. For the services rendered by the Traffic Division in the inspection and certification of any motor vehicle the owner or operator of the same shall pay to the City Treasurer a fee as follows:

“For every automobile, jeep, jitney or station wagon for each semester	P3.00
“For every truck per semester	5.00
“For every motorcycle per semester	1.00

“Provided, however, That no more than two inspection fees shall be charged within one year and all other inspections on the same vehicle shall be free of charge.

“SECTION

4. All motor vehicles coming from outside of the territorial limits of this City for the first time shall immediately report for inspection to the Traffic Division, and the payment of the required fee may be made within ten days from the date of said inspection, and the issuance of the certificate shall not be delayed for non-payment when and if said motor vehicles are found to be travel worthy and a sufficient personal bond for the payment of the required fee is filed with and accepted by the Chief of Police or his authorized agent.

“SECTION 5.

Failure to comply with the provisions of this ordinance shall be punished with a fine not less than ten pesos (P10.00) but not more than two hundred (P200.00) or an imprisonment not exceeding six (6) months, or both fine and imprisonment at the discretion of the Court.

“SECTION 6. This ordinance shall take effect upon approval.” (Pp 12-15, Record

on Appeal.)

The case was commenced in the Court of First Instance of Iloilo by Fulgencio Vega and Leon Cellada, who own motor vehicles and are affected by the enforcement of said ordinance. They question the validity thereof upon the ground that the Municipal Board of the City of Iloilo—which was made defendant, in addition to the City Mayor has no authority to promulgate it On motion of the plaintiffs, and without objection on the part of the defendants, the case was submitted for decision on the pleadings, the only issue raised therein being one purely of law. Thereafter, said court, presided over by Honorable Querube Makalintal, then Judge, rendered judgment for the plaintiffs. Hence, this appeal, taken by the defendants, who maintain that the Municipal Board of the City of Iloilo is empowered to pass the ordinance in question, under section 21 of its charter, Commonwealth Act No. 158. The provisions' thereof relied upon by the appellants read:

“SEC. 21. *General powers and duties of the Board.*—Except as otherwise provided by law, and subject to the conditions and limitations thereof, the Municipal Board shall have the following legislative powers:

“(aa) To enact all ordinances it may deem necessary and proper for the sanitation and safety, the furtherance of the prosperity and the promotion of the morality, peace, good order, comfort, convenience, and general welfare of the city and its inhabitants, and such others as may be necessary to carry into effect and discharge the powers and duties conferred by this charter; and to fix penalties for the violation of ordinances, which shall not exceed a fine of two hundred pesos or six months' imprisonment, or both such fine and imprisonment, for each offense.

“(cc) To regulate any business or occupation and to require license from persons engaged in the same or who exercise privileges in the city, by requiring them to secure a permit for a license at the rate fixed by

the Municipal Board, and to prescribe the conditions under which said permits for licenses may be revoked.”

The foregoing paragraph (*cc*) is limited, however, to the power to regulate “any business or occupation” whereas, obviously, the use of a street, road or highway by a motor vehicle is neither a business nor an occupation. Hence, it is clear that said paragraph (*cc*) is not in point.

As regards paragraph (*aa*), the same is a counterpart of section 2238 of the Revised Administrative Code, otherwise known as the “General Welfare Clause” for regularly organized municipalities. In the case of *People vs. Esguerra et al.*^[*] (45 Off. Gaz., 4949), it was held that a municipal council may not validly enact an ordinance “prohibiting,” among other things, the manufacture, production, sale, barter, giving or possession of intoxicating liquor, the power of said body being limited, by section 2242(*g*) of the Revised Administrative Code, to the “regulation”— which does not include the “prohibition”—of said acts, and that the police power under the general welfare clause does not amplify said authority or remove the limitation thus imposed by specific provision of law. Under Commonwealth Act No. 158, the authority of the Municipal Board of the City of Iloilo in relation to motor vehicles, is found in subdivision (*m*) of section 21 of said Act which grants said board the power:

“(m) To tax motor and other vehicles, notwithstanding provisions to the contrary contained in Act Numbered Thirty-nine hundred and ninety-two, and draft animals not paying any national tax: *Provided, however,* That all automobiles and trucks belonging to the National Government or to any provincial or municipal government, and also automobiles or trucks not regularly kept in the City of Iloilo shall be exempt from such tax.”

This power of taxation is distinct and different from the police power, under which, appellants claim, the ordinance in question was allegedly approved. Moreover, said Commonwealth Act No. 158 explicitly

empowers the Municipal Board of the City of Iloilo to require inspection and to charge fees therefor in certain specified cases.

Thus, said section 21 authorizes said board:

“(n) To regulate the method of using steam engines and boilers, other than marine or belonging to the Federal or National Government; to *provide for the inspection thereof, and a reasonable fee for such inspection*, and to regulate and fix the fees for the licenses of the engineers engaged in operating the same. (Italics supplied.)

* * * * *

“(s) To regulate the inspection, weighing, and measuring of brick, coal, lumber, and other articles of merchandise.

“(t)

* * * to provide for the inspection of, fix the license fees for and regulate the openings in the same for the laying of gas, water, sewer, and other pipes, the building and repair of tunnels, sewers, and drains, and all structures in and under the same, and the erecting of poles and the stringing of wires therein; * * *

* * * * *

“(w)

To regulate, inspect, and provide measures preventing any discrimination or the exclusion of any race or races in or from any institution, establishment, or service open to the public within the city limits or in the sale and supply of gas or electricity, or in the telephone and street-railway service; to fix and regulate charges therefor where the same have not been fixed by laws of the National Assembly; *to regulate and provide for the inspection of all gas, electric, telephone, and street-railway conduits, mains, meters, and other apparatus, and provide for the condemnation, substitution or removal of the same when defective or dangerous.*”

Among these cases, the inspection of motor vehicles and the collection of fees therefor is not included. Consequently, the power to authorize same must be considered denied under the principle *expressio unius est exclusio alterius*.

Indeed, the powers enumerated in said section 21 of Commonwealth Act No. 158, including, therefore, the police power under the general welfare clause therein incorporated, are granted "except as otherwise provided by law and subject to the conditions and limitations thereof."

In this connection, section 70 (b) of Act No. 3992, as amended by section 17 of Republic Act No. 587, positively ordains¹ that:

"No other taxes or fees than those prescribed in this Act shall be imposed for the registration or operation or on the ownership of any motor vehicle, or for the exercise of the profession of chauffeur, by any municipal corporation, the provisions of any city charter to the contrary notwithstanding: *Provided, however,* That any provincial board, city or municipal council or board, or other competent authority may exact and collect such reasonable and equitable toll fees for the use of such bridges and ferries, within their respective jurisdictions, as may be authorized and approved by the Secretary of Public Works and Communications, and also for the use of such public roads, as may be authorized by the President of the Philippines upon recommendation of the Secretary of Public Works and Communications, but in none of these cases, shall any toll fees be charged and collected until and unless the approved schedule of tolls shall have been posted legibly in a conspicuous place at such toll station."

The qualification "the provisions of any city charter to the contrary notwithstanding" leaves no room for doubt that the provisions of Commonwealth Act No. 158 and its general welfare clause, under section 21 (aa), are subject to the limitations thus imposed by Act No. 3992, as amended by Republic Act No. 587. This construction becomes even more imperative when we consider that, pursuant to said Act No.

3992,

“No motor vehicle shall be used or operated on, or upon any public highway of the Philippine Islands unless the same is properly registered for the current year in accordance with the provisions of this Act” (Sec. 5[a]),

and that section 4 of the same Act places the Director of Public Works “in charge of the administration” of its provisions, and grants him, among others, the power

“(h) * * * at any time to examine and inspect any motor vehicle, in order to determine whether the same is unsightly, *unsafe*, overloaded, improperly marked or equipped, or otherwise *unfit* to be operated because of possible danger to the chauffeur, to the passengers, or the public; or because of possible excessive damage to the highways, bridges or culverts.” (Sec. 5, Act No. 3992.)

Thus, the power to determine whether a motor vehicle is in such a condition as to be safe for its passengers and the public in general, is vested by Act No. 3992 in the Director of Public Works. Considering the general tenor of the provisions of said Act, as well as those of the charter of the City of Iloilo, we are not prepared to hold that Congress intended to clothe the latter with authority to impose certain requirements—in addition to those provided in Act No. 3992, as amended—as a condition precedent to the use of motor vehicles within the limits of the City of Iloilo. It is even harder to believe that the latter was sought to be invested with authority to ordain that the police department of Iloilo shall check whether an officer of the National Government, namely the Director of Public Works, has complied with his duty to test the mechanical proficiency of the safety devices of motor vehicles, on which the latter is supposed to be better qualified.

Municipal corporations in the Philippines are mere creatures of

Congress. As such, said corporations have only such powers as the legislative department may have deemed fit to grant them. By reason of the limited powers of local governments and the nature thereof, said powers are to be construed strictly and “any doubt or ambiguity arising out of the term used in granting” said powers “must be resolved against the municipality. * * * (Cu Unjieng vs. Patstone, 42 Phil., pp. 818, 830; Pacific Commercial Co. vs. Romualdez, 49 Phil., pp. 917, 924; Batangas Transportation Co. vs. Provincial Treasurer of Batangas, 52 Phil., pp. 190, 196; Baldwin vs. City Council, 53 Ala., pp. 437; State vs. Smith, 31 Iowa, p. 493; 38 Am. Jur., pp. 68, 72 73).” (Icard vs. The City Council of Baguio and The City of Baguio,^[*] 46 Off. Gaz., Supplement No. 11, pp. 320, 323.) Accordingly, the lower court did not err in declaring that the ordinance in question is *ultra vires*.

Wherefore, the decision appealed from is hereby affirmed, without special pronouncement as to costs.

Pards, C. J., Pablo, Bengzon, Montemayor, Jugo, Reyes, Bautista Angelo, and Labrador, JJ., concur.

^[*] 81 Phil., 33.

^[*] 83 Phil., 870.