

Title: Aquino v. Municipality of Malay, et al.

Facts:

The Municipality of Malay, represented by Mayor John P. Yap, and various other respondents were involved in a legal battle against petitioner Crisostomo B. Aquino, president and CEO of Boracay Island West Cove Management Philippines, Inc. (Boracay West Cove). The dispute revolved around the construction and operation of a three-story hotel by Boracay West Cove in a “no build zone” in Boracay Island, Malay, Aklan, without the necessary permits and clearances.

On January 7, 2010, Boracay West Cove applied for a zoning compliance to obtain a building permit. The request was denied on January 20, 2010, due to the location within the “no build zone.” Aquino appealed to the Office of the Mayor but received no resolution. Despite lacking permits, Boracay West Cove continued its operation and even expanded its hotel.

Subsequently, various notices and orders were served to Aquino and Boracay West Cove, including a Notice of Assessment for unpaid taxes and a Cease and Desist Order by the municipal government, both in 2011. On June 7, 2011, the Mayor of Malay issued Executive Order No. 10 (EO 10), ordering the closure and demolition of the hotel. The hotel was partially demolished following EO 10.

Aquino challenged EO 10 through a Petition for Certiorari with the Court of Appeals (CA), claiming it was issued and executed with grave abuse of discretion. Nonetheless, the CA dismissed the petition on procedural grounds, stating certiorari was not the proper remedy as the issuance of EO 10 was an exercise of executive functions. A motion for reconsideration by Aquino was denied, leading to the elevation of the matter to the Supreme Court.

Issues:

1. Whether a petition for certiorari, instead of declaratory relief, is the proper remedy for challenging EO 10.
2. Whether the CA erred in determining that Mayor Yap performed neither a judicial nor quasi-judicial function in issuing EO 10.
3. Whether Mayor Yap committed grave abuse of discretion in issuing EO 10.
4. Whether the due process rights of the petitioner were violated due to the absence of judicial proceedings before ordering the demolition.
5. Whether the refusal to issue building permits and clearances to the petitioner was

justified.

6. Whether the rights under the FLAgT (Forest Land Use Agreement for Tourism Purposes) override the municipal no-build zone ordinance.
7. Whether the DENR (Department of Environment and Natural Resources) holds primary jurisdiction over the dispute, not the LGU (Local Government Unit).

Court's Decision:

The Supreme Court denied the petition for lack of merit, affirming the CA's decision and ruling. The court found that:

1. Certiorari was the proper remedy since declaratory relief was no longer viable after the implementation of EO 10.
2. The respondent mayor was exercising quasi-judicial functions as he was making determinations on legality which justified the certiorari.
3. Grave abuse of discretion was not committed by the mayor. The hotel's location made it a nuisance per accidens, and the mayor's office was empowered by law to issue demolition orders.
4. Due process rights were not violated since the required procedures and hearings before demolition were observed, and an absence of a court order for a nuisance per accidens or an illegal construction was not necessary.
5. Refusal to issue permits and clearances was justified as the construction was illegal per the existing zoning ordinance and requirements were not met.
6. The FLAgT could not override the municipal ordinance and national building code requirements.
7. The DENR did not have primary jurisdiction over the issue since it pertained to compliance with local and national construction regulations rather than the environmental regulation or administration of forest lands.

Doctrine:

This case reaffirms the authority of LGUs in enforcing zoning ordinances and the power to order the closure and demolition of illegally constructed buildings without necessarily securing a court order. It further emphasizes the obligation of entities to comply with local and national regulatory requirements for building construction.

Class Notes:

- LGUs have the power to regulate via ordinances to ensure public safety.
- Municipal mayors can exercise quasi-judicial functions and issue demolition orders on illegally constructed buildings per Section 444(b)(3)(vi) of the LGC.

- Certiorari is a proper remedy when there is no plain, speedy, and adequate remedy in the ordinary course of law.
- A FLAgT cannot supersede local ordinances or national building codes.
- Illegal constructions can be a nuisance per accidens and subject to abatement without a court order.
- “[A] local chief executive concerned shall ensure that such executive orders are within the powers granted by law and in conformity with provincial, city, or municipal ordinances.”

Historical Background:

Boracay Island, a prime tourist destination in the Philippines, has undergone rapid development often resulting in disputes over land use and environmental concerns. Local regulations such as no-build zones are instituted to address these issues, balancing development with environmental preservation. This case occurred within the broader context of increasing environmental regulation and its interplay with tourism-based businesses on Boracay Island. It highlights tensions between local governance, business interests, and resource conservation, showcasing the judiciary’s role in resolving complex land use conflicts.