

**THE CHIEF OF CONSTABULARY, AND THE PROVINCIAL
COMMANDER OF RIZAL, PHILIPPINE CONSTABULARY,
PETITIONERS, VS. HON. HERMINIO C. MARIANO, AS JUDGE OF THE
COURT OF FIRST INSTANCE OF ...**

G.R. No. L-30689. February 27, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The petitioners came to this Court on an original action for certiorari and prohibition, with preliminary injunction, to set aside the restraining order issued by respondent Judge on May 16, 1969, in Civil Case No. 11792 of the Court of First Instance of Rizal, entitled "Delfin Dominguez, et al., plaintiffs, versus The Chief of the Philippine Constabulary, et al., defendants;" to stop said Judge from further taking cognizance of said case; and to order private respondent to cease and desist from conduct-ing or holding any cockfights on any day of the week not otherwise permitted by law.

The aforesaid civil case was a complaint for in-junction to stop the defendants, now petitioners, from stopping the holding of cockfights in the cockpit of the plaintiff, now respondent, Delfin Dominguez, which cock-fights had been authorized on any three days of each week by resolution No. 112 of the other plaintiff, now respondent, barrio council of Sangandaan, Caloocan City, passed in its session of May 4, 1969, allegedly to generate "funds for the purpose of buying medicines, improvement of barrio roads, barrio playgrounds, athletic equipment and other things needed for the health and safety of barrio folk." The resolution was passed, as stated therein, "pursuant to Section 18 of the Barrio Charter Law, Republic Act No. 3590," (under which) "the Barrio Council may accept or solicit monies or contribu-tions from private agencies and individuals."

As prayed for in the complaint below, respondent Judge, on May 16, 1969, set the preliminary injunction for hearing on May 31, 1969, but at the same time issued a restraining order in the meantime, ex parte and without bond, ordering the defendants to refrain "from doing the acts sought to be enjoined," namely, preventing or stopping the cockfights authorized in the resolution and arresting any persons entering the cockpit on the occasion of the same.

On July 14, 1969 this Court required respondents to answer the petition and ordered a writ of preliminary injunction to issue to stop respondent Court from implementing the restraining order and from taking further cognizance of Civil Case No. 11792, and to stop also private respondent, as cockpit owner, from conducting or holding any cockfights on any day of the week not otherwise permitted by law, "whether for the benefit of barrios or other money-making scheme, subject matter of said civil case No. 11792."

Respondent Judge filed his answer in due course, alleging inter alia that the petition was premature, since petitioners did not oppose the postponement of the hearing on the preliminary injunction to May 31, 1969, and did not move for a reconsideration of the restraining order before the commencement of the instant proceeding.

On their part, respondents Delfin Dominguez and the barrio council of Sangandaan, Caloocan City, filed a manifestation on August 8, 1969, to the effect that all barrio councils in said City had been abolished.[1]

On August 30, 1969 petitioners, commenting on respondents' manifestation, prayed that judgment be rendered making permanent the writ of preliminary injunction issued by this Court on July 15, 1969.

Another manifestation was filed by respondent Delfin Dominguez on November 27, 1969, pointing out that this case had become moot and academic and asking that it be dismissed on that ground.

Considering that the avowed purpose of resolution No. 112 of the barrio council of Sangandaan, Caloocan City, in authorizing the holding of cockfights not otherwise allowed by law, was to generate funds for the use of the barrio, it would seem indeed that the abolition of said barrio council has rendered this case moot and academic. On the other hand, the restraining order complained of was issued for the benefit not only of the said barrio council but also of the other plaintiff, herein respondent Delfin Dominguez, the owner of the cockpit where the cockfights were to be held. In view thereof, as well as of the palpable illegality of the aforesaid resolution,[2] the mere dismissal of the instant petition may not provide final and adequate relief.

The barrio council resolution in question runs counter to Sections 2285 and 2286 of the Revised Administrative Code, under which cockfighting is permitted only on legal holidays, for a period not exceeding three days during a local fiesta, or for a similar period during an agricultural or industrial fair. The prohibition against the holding of cockfights on other days has not been repealed, amended or relaxed by the grant of power to the barrio council, in Section 18 of the Revised Barrio Charter (R.A. No. 3590), to "solicit monies... and other contributions from... private agencies and individuals."

In the cases cited at the footnote this Court struck down as invalid municipal ordinances authorizing cockfights such as those authorized by the barrio council resolution involved herein. Referring to the expedient (so often resorted to as to form a discernible pattern) of filing complaints against law enforcement officers and then obtaining from the trial court a restraining order or injunctive writ Mr. Justice Roberto Concepcion, now Chief Justice, speaking for the Court in two of those cases (G. R. Nos. L-22308 and 22343-4), made this advertence: "Thus, several parties had, through the action and the omission of the judicial branch of the government, succeeded not only in evading the law, but also in preventing the executive department from executing and enforcing the same, for over two (2) years. Surely, more caution should be exercised to avoid such occurrence, if we hope to keep the faith of the people in the courts of justice."

Wherefore, judgment is hereby rendered setting aside the restraining order complained of and making the preliminary injunction issued by this Court permanent, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] R.A. No. 5502, Sec. 1, approved June 21, 1969.

[2] Quimsing vs. Lachica, G.R. No. L-14683, May 30, 1961; Chief of Philippine Constabulary vs. Sabungan Bagong Silang, Inc., L-22609, Feb. 28, 1966; Chief, PC vs. Judge CFI Caloocan City, L-22308, Peralta vs. Judge Pedro JL Bautista, L-22343-4, March 31, 1966.

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