

**TOMAS VELASCO, LOURDES RAMIREZ, SY PIN, EDMUNDO UNSON,
APOLONIA RAMIREZ AND LOURDES LOMIBAO, AS COMPONENT
MEMBERS OF THE STA. CRUZ BARBERSHOP ASSOCIATION, IN THEIR
OWN BEHALF AN...**

G.R. No. L-24153. February 14, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

This is an appeal from an order of the lower court dismissing a suit for declaratory relief challenging the constitutionality based on Ordinance No. 4964 of the City of Manila, the contention being that it amounts to a deprivation of property of petitioners-appellants of their means of livelihood without due process of law. The assailed ordinance is worded thus: "It shall be prohibited for any operator of any barber shop to conduct the business of massaging customers or other persons in any adjacent room or rooms of said barber shop, or in any room or rooms within the same building where the barber shop is located as long as the operator of the barber shop and the rooms where massaging is conducted is the same person." [1] As noted in the appealed order, petitioners-appellants admitted that criminal cases for the violation of this ordinance had been previously filed and decided. The lower court, therefore, held that a petition for declaratory relief did not lie, its availability being dependent on there being as yet no case involving such issue having been filed. [2]

Even if such were not the case, the attack against the validity cannot succeed. As pointed out in the brief of respondents-appellees, it is a police power measure. The objectives behind its enactment are: "(1) To be able to impose payment of the license fee for engaging in the business of massage clinic under Ordinance No. 3659 as amended by Ordinance 4767, an entirely different measure than the ordinance regulating the business of barbershops and, (2) in order to forestall possible immorality which might grow out of the construction of separate rooms for massage of customers." [3] This Court has been most liberal in sustaining ordinances based on the general welfare clause. As far back as *U.S. v. Salaveria*, [4] a 1918 decision, this Court through Justice Malcolm made clear the significance and scope of such a clause, which "delegates in statutory form the police power to a municipality. As above stated, this clause has been given wide application by municipal authorities and has in its relation to the particular circumstances of the case been liberally construed by the courts. Such, it is well to recall, is the progressive view of Philippine jurisprudence." [5] As it was then, so it has continued to be. [6] There is no showing, therefore, of the unconstitutionality of such ordinance.

WHEREFORE, the appealed order of the lower court is affirmed. No costs.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Teehankee, J., reserves his vote.

Aquino, J., took no part.

[1] Ordinance No. 4964, Section 1.

[2] Record on Appeal, 26.

[3] Brief for the Respondents-Appellees, 7.

[4] 39 Phil. 102.

[5] Ibid, 109.

[6] Cf. *Agustin v. Edu*, L-49112, February 2, 1979, 88 SCRA 195. The opinion of the law cited *Calalang v. Williams*, 70 Phil. 726 (1940); *Ermita-Malate Hotel and Motel Operators Asso. v. City Mayor of Manila*, L-24693, July 31, 1967, 20 SCRA 849; *Morfe v. Mutuc*, L-20387, January 31, 1968, 22 SCRA 424; *Edu v. Ericta*, L-32096, October 24, 1970, 35 SCRA 481.

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