

CIPRIANO OLAVIANO, AGUSTIN OSTREA, LUIS OLIVAR, LEOCADIO OSTREA, NORBERTO RODRIGUEZ, EUGENIO RAMIRES, ET AL., PLAINTIFFS AND APPELLANTS, VS. PRIMITIVO ORIELL, MAYOR OF BALAOAN; ...

G.R. No. L-1566. February 27, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

Flatly disagreeing with the councilors of their town about the demolition of the remains of the old municipal building, the six plaintiffs, for themselves and in representation of twenty other residents of Balaoan, La Union, petitioned the Court of First Instance for an injunction to impede such destruction, which was authorized by a resolution unanimously approved by the council.

On a motion to dismiss, the Honorable Vicente Santiago, Judge, absolved the defendants,—the mayor and the councilors—upon the ground that the plaintiffs had no standing, to litigate as mere, taxpayers or citizens because they did not show, nor assert, an injury to them different from that allegedly suffered by the general public. The court also held that as the masonry foundations had practically been demolished, injunction did not lie.

The plaintiffs appealed in due course.

This case having terminated in the court a quo upon a motion to dismiss, no factual questions are involved, the material averments of the complaint being deemed admitted.

After describing the parties, the complaint with its annex (September, 1946) declared that on July 29, 1946, in a session duly assembled, the municipal council adopted resolution No. 9 authorizing the demolition of the masonry foundations of the old municipal building, to give way to the extension of Calle Cortado; that said resolution was an excess or abuse of discretion because it would be detrimental to the interests of the municipal corporation; that plaintiffs vainly protested to the council; that the resolution had never been acted upon by the provincial board; that the council and the mayor violated the provisions of section 921 of the Manual of Instructions to Municipal Treasurers; and that the provincial board turned deaf ears to representations the petitioners had made in the matter.

There is no allegation, and plaintiffs do not maintain, that the council as the legislative body for Balaoan had no authority to approve the challenged resolution. They merely contend that it constituted an abuse of discretion because it would inflict losses amounting to around P20,000 to the taxpayers of the town. In other words, plaintiffs do not see eye to eye with their councilors on the advisability of the demolition. Now, in the municipality of Balaoan whose undenied population is 15,000 (record on appeal, p. 44) the defendant councilors are deemed to represent the views of the majority at least, of the electors and taxpayers. The statute calls them the representatives "of the true interests of the people of the entire municipality." (Section 2216, Administrative Code.) Therefore, how can twenty-six persons pretend to impose their ideas about the convenience or inconvenience of the demolition or the benefit or prejudice deriving therefrom? This being a democratic country

where the will of the majority usually prevails, His Honor acted properly in applying the rule that private citizens may not restrain official acts where—as in this case—plaintiffs do not allege nor prove damages to themselves (private loss) different in character from that sustained by the public generally, (public injury)[1], what with the sound policy of protecting the public corporation or its officers from a multiplicity of suits.

It would indeed be preposterous if a taxpayer or a group of taxpayers could drag the Municipal Board members of Manila into the court premises to debate the futility of a street repair, or bridge construction, upon the mere plea that they have an interest in the properties and the well-being of their local government. The courts are not the supervisors of these officials.

And this is not stifling civic-mindedness as plaintiffs apprehend, because such critics have free access to the City Hall itself to formulate their protests or the columns of the press, even to the polls to prevent repetition of the poor judgment of their elective officials. It must be emphasized that we are speaking about ordinances or resolutions within the powers of the council.

At this juncture we may advert to the contention that the defendants could not legally order the execution of their resolution because it had not been previously approved by the provincial board. There is nothing in the Administrative Code - nor in section 2233 invoked by appellants - expressly or impliedly providing that an ordinance or resolution does not become effective until it is okayed by the provincial board.

Under the law every ordinance or resolution shall go into effect on the tenth day after its passage (see section 2230, Administrative Code) subject of course to the power of the provincial board subsequently to declare such ordinance or resolution invalid (sec. 2233, Adm. Code) if it should find that it is beyond the powers conferred upon the council. But here it is averred that the provincial board of La Union, besides having "noted" the resolution which had been forwarded to it, overruled the plaintiffs' protests against it, action which in effect proves implied assent thereto.

Again it is urged that defendants violated section 921 of the Manual of Instructions to Municipal Treasurers containing rules on the "sale or condemnation" of real property belonging to a municipality. Yet none of herein defendants is a municipal treasurer upon whom the instructions are binding. Moreover, such section does not apply, because the matter is not a "sale or condemnation" but a "use" of real property - the bricks and stones to be taken from the ruins "shall be used for the reparation of the municipal streets". (Exhibit A).

The above views sufficiently show the untenability of the action of plaintiffs and appellants. Wherefore, it becomes unnecessary to discuss the other ground of dismissal based on the fact that the structure had been practically demolished.

Judgment affirmed, with costs. So ordered.

Moran, C.J., Feria, Pablo, and Padilla, JJ., concur.

[1] See American Jurisprudence, pp. 353, 354.

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