

**ROBLE ARRASTRE, INC., PETITIONER, VS. HON. ALTAGRACIA VILLAFLO AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.***G.R. NO. 128509. August 22, 2006*

Ponente: CHICO-NAZARIO, J.

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Before Us is a Petition for Review on Certiorari, assailing the 7 October 1996 Decision[1] and the 13 February 1997 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 40621, which reversed and set aside the 29 March 1995 Decision[3] of the Regional Trial Court (RTC), Branch XVIII, Hilongos, Leyte, in Special Civil Action No. H-237.

**The Antecedents**

Petitioner Roble Arrastre, Inc. is a cargo handling service operator, authorized by the Philippine Ports Authority (PPA) through Permit No. M92-005 to provide and render arrastre and stevedoring services at the Municipal Port of Hilongos, Leyte, and on all vessels berthed thereat, from 7 September 1992 to 15 September 1993.[4] For the years 1992 and 1993, petitioner was granted Business Permits No. 349 and No. 276, respectively, by respondent Altagracia Villaflo as Municipal Mayor of Hilongos, Leyte. On 14 December 1993, pending final consideration of petitioner's application for renewal with the PPA Office, Manila, the PPA through its Port Manager Salvador L. Reyna of the Tacloban Port Management Office issued a 90-day hold-over authority to petitioner. Stated therein was the proviso that notwithstanding the 90-day period aforementioned, the authority shall be deemed ipso facto revoked if an earlier permit/contract for cargo handling services is granted or sooner withdrawn or cancelled for cause pursuant to PPA Administrative Order No. 10-81. On 27 January 1994, while the 90-day hold-over authority was in effect, petitioner filed with respondent mayor an application for the renewal of its Business Permit No. 276. However, the same was denied.

Aggrieved by the denial, petitioner filed with the RTC, a Petition for Mandamus with Preliminary Mandatory Injunction[5] against respondent mayor, raising the primary ground that the refusal to issue the business license sought for was a neglect to perform an act which the law enjoins her to do, by virtue of the office she occupies. According to petitioner, the source of the power of the municipal mayor to issue licenses is Section 444(b)(3)(iv)[6] of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, which is merely for the purpose of revenue generation and not regulation, hence, the municipal mayor has no discretion to refuse the issuance of a business license following the applicant's payment or satisfaction of the proper license fees.[7] Petitioner further alleged that it is the PPA which is vested with the discretion to determine whether a party can render arrastre service in a particular port area.[8]

In answer thereto, respondent mayor averred, inter alia, that the remedy of mandamus does not lie as the issuance of the permit sought is not a ministerial function, but one that requires the exercise of sound judgment and

discretion.[9] In denying petitioner's application, respondent mayor invoked Municipal Resolution No. 93-27,[10] passed by the Sangguniang Bayan of Hilongos, Leyte, on 17 March 1993, which prohibits any party which likewise operates shipping lines plying the route of Cebu to Hilongos and vice versa, from engaging in arrastre and stevedoring services at the port of Hilongos.[11] Respondent mayor asserted that petitioner is owned and operated by Roble Shipping Lines, a shipping company that operates along the routes specified in Municipal Resolution No. 93-27;[12] hence, effectively rendering petitioner disqualified from operating an arrastre service therein.[13] Finally, by way of counterclaim, respondent mayor sought moral and exemplary damages, attorney's fees and expenses of litigation.[14]

On 16 May 1994, petitioner filed a Supplemental Petition,[15] contending that subsequent to the filing of the Petition for Mandamus with the RTC, it was granted by the PPA a five-year contract[16] to provide cargo handling and other related services at the Port of Hilongos, Leyte, effective 1 March 1994. The aforesaid contract was indorsed by the District Manager for the Visayas to the Port Manager of Tacloban. Moreover, petitioner sought to incorporate the five-year contract as an integral part of its Petition. The Supplemental Petition was admitted by the RTC, in the Order[17] dated 19 July 1994.

On 19 September 1994, the RTC issued a Pre-Trial Order containing the following admitted stipulations of facts, to wit:

- That petitioner in 1993 was issued a Mayor's Permit No. 276 on January 29, 1993, [as] shown by Annex "B" of the petition;
- [That petitioner paid] for Business and License Permit for the year 1994 in the amount of P9,789.48 under Official Receipt No. 7534455-C;
- [That petitioner procured a] Barangay Clearance.[18]

In the same Order, the RTC denied the parties' motion that the case be submitted on the pleadings since no judgment on the pleadings could be had as there were controverted issues material to the case.[19]

#### The Ruling of the RTC

The RTC opined that the PPA has the sole authority to grant permits in the operation of cargo handling services in all Philippine ports, whether public or private. Proceeding therefrom, it ruled that the refusal of respondent mayor to approve petitioner's application for renewal of the business permit was not based on law nor upon her discretion.

The RTC ratiocinated in this wise, thus:

As can be read the resolution is to object to the approval of a five (5) year management contract for Arrastre and Stevedoring Services in the port of Hilongos, Leyte, applied by the Roble Arrastre, Inc. with the concomitant reason that the Sangguniang Bayan finds it logical and ethical not to grant any permit to any group or corporation in the municipal port of Hilongos who are operators of Shipping Lines flying (sic) the route from Cebu to Hilongos and vice-versa to protect the business interest of the shipping industry of the municipality. This resolution is signed by the Municipal Vice Mayor as Presiding Officer of Sangguniang Bayan and approved by the Mayor. To the mind of the court the approval of the Mayor in a resolution by the Sangguniang Bayan is superfluous. This is not an ordinance that should be signed by the mayor in order to become effective as a law but a resolution of that august body. The above resolution was approved on March 17, 1993 notwithstanding (sic) the fact that as shown by the wordings thereat there was already a public hearing conducted by PPA Manila on March 9, 1993 at the Municipal Multi[-] Purpose Center. The Municipal Mayor was present and complaints were entertained by the Hearing Officers from several shippers of

Hilongos, Leyte. As appearing also in the lower portion of the said resolution, the same was furnished PPA Manila and the respondent admitted that she did not even know whether a copy had been sent by the Sangguniang Bayan to the concerned offices. Granting that this resolution reached the General Manager, PPA, Manila, she have (sic) not pursued any action on the matter nor the Office of the Mayor and the Sangguniang Bayan received any information of what proper action was taken therein. It is indeed unfortunate that whatever nature of the complaints which was heard during the public hearing by the representative of the PPA, it is not shown whether PPA lend (sic) an ear to it. The fact remains that on March 1, 1994[,] nearly 1 year after this resolution and public hearing, the petitioner, Roble Arrastre, Inc., was given a contract by PPA who has the authority under P.D. 875[20] (sic) to issue the same.

x x x x

x x x The law is clear that under P.D. 875 the sole authority to authorize operation of cargo handling services in all ports of the Philippines whether public or private is lodge (sic) with the Philippine Ports Authority. Under the said law the granting of permits is through the PPA Board carried out by the General Manager or his assistant. This Court has taken noticed (sic) also that no ordinance had been passed by the Sangguniang Bayan and approved by the Municipal Mayor of Hilongos, Leyte, in accordance with the Local Government with regards to the port operation in the port of Hilongos nor there was [a] showing that the Executive Officer of the municipality has anything to say on the power and jurisdiction of the PPA in the port of Hilongos, Leyte. This goes to show that even these public officers knows (sic) the extent of their power as regards the authority of the PPA.

This Court is of the firmed (sic) belief and so holds that the refusal of the Municipal Mayor to approve the application for renewal is not based on law nor upon her discretion. Under the milieu of the case the PPA is authorized and have (sic) the exclusive jurisdiction over all ports of the Philippines and they (sic) alone can issue cargo handling contracts.[21]

Finding for petitioner, the court a quo disposed as follows:

PREMISES CONSIDERED, by preponderance of evidence, this Court give (sic) due course to this petition of Mandamus in favor of the Roble Arrastre, Inc. and against the respondent, the Honorable Municipal Mayor of Hilongos sued in her capacity as a Public Officer and orders her forthwith:

a) To approve the application of Roble Arrastre, Inc. for the year 1994 as he has already paid the necessary payments in connection therewith albeit the same permit is now functous officio as this is now 1995. Nevertheless, this approved permit to be issued by the Mayor shall be a basis for renewal of the said 1994 permit for the year 1995 after payment of due fees required by her office.

Without pronouncement as to costs. The counterclaim of respondent is hereby dismissed.[22]

Respondent mayor filed a Motion for Reconsideration thereon, which was denied for lack of merit by the RTC, in the Order[23] dated 25 October 1995.

The Ruling of the Appellate Court

Upon elevation of the case to the Court of Appeals, the appellate court rendered a Decision dated 7 October 1996, reversing and setting aside the RTC. Moreover, it entered a new judgment dismissing Special Civil Action No. H-237.

The Court of Appeals ruled that the pursuit of the duty of respondent mayor under Section 444(b)(3)(iv)[24] of the Local Government Code necessarily entails the exercise of official discretion. Hence, it held that mandamus will not lie to control or review the exercise of her discretion. Moreover, the Court of Appeals declared that petitioner's main prayer, i.e., to compel respondent mayor to issue a business license for the year 1994, by the

passage of time had already become moot and academic. On this score, the appellate court declared that the issue is academic. Courts will not adjudicate moot cases nor hear a case when the object sought is no longer attainable.

The appellate court pronounced, thus:

Under Section 444(b)(3)(iv), all local chief executive officer (sic) or municipal mayors are vested with the authority to issue licenses and permits within their jurisdiction. In the same provision, the mayor may likewise suspend or revoke a permit for any violation of the conditions upon which the same had been issued, pursuant to law or ordinance. In effect, under said Section 444(b)(3)(iv), the municipal governments, thru its chief executive, are endowed with the authority to exercise police power.

Evidently, the pursuit of its duty under the (sic) police power necessarily entails exercise of official discretion in order for any local officials to ascertain which will better serve their constituents who elected them into office. Full discretion must necessarily be granted them to perform their functions and it will not be sound logic to simply make them perform purely ministerial functions. And when the discharge of an official duty requires the exercise of official discretion or judgment, it is never a ministerial one (*Mateo vs. CA*, 196 SCRA 280 [1991]).

Furthermore, where the only power given to a municipal corporation or official is to issue license, as in Section 444 of the Local Government Code, it is clearly regulatory in nature rather than a revenue raising one. Conclusively, regulation being the object of the power to issue license and permits the exercise of discretion by the issuing authority becomes an inescapable prerogative. This could be the very same reason why business permits and licenses are renewed almost annually in order that the licensing officials in carrying out their functions could examine and evaluate availing circumstances and conditions and with the exercise of discretion determine whether to grant or deny the application or, to revoke a license or permit already issued. It should also be understood that a municipal license is not a property such that it is revocable when public interest so requires (*Pedro vs. Provincial Board of Rizal*, 56 Phil. 126).[25]

The dispositive portion of the assailed Decision reads:

IN VIEW OF ALL THE FOREGOING, the appealed decision is hereby REVERSED AND SET ASIDE and a new one entered dismissing Special Civil Action No. [H-]237. No pronouncement as to costs.[26]

Petitioner filed a Motion for Reconsideration but the same was denied by the Court of Appeals in its Resolution dated 13 February 1997.

Hence, the instant Petition.

The Issues

Petitioner, in its Memorandum, presented the following statement of issues, to wit:

I

Whether or not it was valid for the Court of Appeals to have relied on the cases of *Mateo v. Court of Appeals* and *Pedro v. Provincial Board of Rizal*, in ruling that respondent Mayor had full discretion in issuing or renewing the Business Permit even after the petitioner duly complied with all documentary requirements and fully paid the corresponding permit fees.

II

Whether or not the Court of Appeals validly interpreted Section 444, (3) (iv), R.A. 7160, otherwise known as the Local Government Code of 1991, as a grant of police power and full discretion to the respondent mayor to refuse the issuance of the permit despite due compliance of all documentary requirements and full payment of the required permit fees by the petitioner.

## III

Whether or not the Court of Appeals validly rendered its Decision when it refused to apply the precedent in *Symaco v. Aquino* wherein this Honorable Supreme Court held that even in the absence of any ordinance granting the respondent Mayor such discretion, she cannot refuse issuance of the permit if there is prior compliance by the petitioner with all documentary requirement and full payment of the required permit fees.

## IV

Whether or not the Court of Appeals validly rendered its Decision when it dismissed the [Petition] allegedly on the ground that it became (sic) moot and academic.[27]

### The Ruling of the Court

At the outset, we state our concurrence with the Court of Appeals when it entered a new judgment dismissing Special Civil Action No. H-237 on the ground of mootness. The appellate court ratiocinated, to wit:

Lastly, it would seem that the main prayer of the complaint, that is, to compel the respondent mayor to issue a business license for the year 1994, by the passage of time during which this case pends, had already become moot and academic. A new application is necessary for the year 1995 and the year 1996 which is about to end. And in the grant or denial of such application for business permits or licenses, the respondent mayor must examine closely the circumstances prevailing and again use her discretion in the exercise of her official function. Accordingly, the issue at hand is already academic and it is well established that courts will not adjudicate moot cases nor hear a case when the object sought is not attainable (*State vs. Lambert*, 52 W. Va. 248, 43 S. E. 176) and it will decline jurisdiction over moot cases which must involve only actual interests. (In re: *Estate of Caballos*, 12 Phil. 271; *Beech vs. Crossfield*, 12 Phil. 555).[28]

Indeed, Courts will not determine a moot question in a case in which no practical relief can be granted. It is unnecessary to indulge in academic discussion of a case presenting a moot question as a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be enforced.[29] However, we are constrained to render judgment herein pursuant to our symbolic function of educating the bench and the bar.[30] For another, this case comes within the rule that courts will decide a question otherwise moot and academic if it is "capable of repetition yet evading review."[31]

The crux of the instant controversy is whether respondent mayor can be compelled by a writ of mandamus to grant petitioner's application for a renewal of a business permit to operate an arrastre service at the Municipal Port of Hilongos in Leyte.

Ostensibly, it is petitioner's contention that respondent mayor's power to issue permits as contained in the aforesaid law is ministerial; hence, mandamus lies.

It bears to reiterate this Court's ruling on the nature of the writ of mandamus. The writ of mandamus serves to compel a respondent who fails to perform a legal duty or unlawfully excludes another from the enjoyment of an entitled right or office to do the act required to be done to protect the rights of the petitioner.[32] Otherwise stated, mandamus is issued to command the performance of a ministerial, but not a discretionary duty.

With that settled, we make a determination of the nature of the power of respondent mayor to grant petitioner a permit to operate an arrastre service. Central to the resolution of the case at bar is a reading of Section 444(b)(3)(iv) of the Local Government Code of 1991, which provides, thus:

SEC. 444. The Chief Executive: Powers, Duties, Functions and Compensation.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the

municipality and its inhabitants pursuant to Section 16 of this Code, the Municipal mayor shall:

x x x x

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

x x x x

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance. (*Italics supplied.*)

As Section 444(b)(3)(iv) so states, the power of the municipal mayor to issue licenses is pursuant to Section 16 of the Local Government Code of 1991, which declares:

SEC. 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 16, known as the general welfare clause, encapsulates the delegated police power to local governments. Local government units exercise police power through their respective legislative bodies.[33] Evidently, the Local Government Code of 1991 is unequivocal that the municipal mayor has the power to issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance. On this matter, petitioner maintains that under the Local Government Code of 1991, a suspension or revocation of permits shall be premised on a finding of violation of the conditions upon which the permits were issued pursuant to a law or ordinance, which is independent of the Code itself. Petitioner asseverates further that there was no law or ordinance that conferred upon the respondent mayor the power to refuse the issuance of the permit despite compliance of petitioner with all documentary requirements and payment of all the fees.

First. On petitioner's assertion that the power to issue license should be pursuant to law other than the Local Government Code of 1991, we so hold that the language of the law did not find the need to distinguish between other laws and that of the Local Government Code of 1991 itself. When the law does not distinguish, we must not distinguish.[34] *Ubi lex non distinguit nec nos distinguere debemus*. Hence, even the Local Government Code of 1991, specifically Section 16 thereof, can be utilized to determine the bounds of the exercise of the municipal mayor in issuing licenses and permits.

Second. While we agree with petitioner that there is no ordinance conferring upon the respondent mayor the power to refuse the issuance of the permit for the operation of an arrastre service, we are, as yet, unprepared to declare that the power of the municipal mayor as enunciated under Section 444(b)(3)(iv) is ministerial. What can be deduced from the aforesaid section is that the limits in the exercise of the power of a municipal mayor to issue licenses, and permits and suspend or revoke the same can be contained in a law or an ordinance. Otherwise stated, a law or an ordinance can provide the conditions upon which the power of the municipal mayor under Section

444(b)(3)(iv) can be exercised. Section 444(b)(3)(iv) of the Local Government Code of 1991 takes its cue from Section 16 thereof, which is largely an exercise of delegated police power. We said:

The general welfare clause is the delegation in statutory form of the police power of the State to LGUs. Through this, LGUs may prescribe regulations to protect the lives, health, and property of their constituents and maintain peace and order within their respective territorial jurisdictions. Accordingly, we have upheld enactments providing, for instance, the regulation of gambling, the occupation of rig drivers, the installation and operation of pinball machines, the maintenance and operation of cockpits, the exhumation and transfer of corpses from public burial grounds, and the operation of hotels, motels, and lodging houses as valid exercises by local legislatures of the police power under the general welfare clause.[35]

Section 444(b)(3)(iv) of the Local Government Code of 1991, whereby the power of the respondent mayor to issue license and permits is circumscribed, is a manifestation of the delegated police power of a municipal corporation.[36] Necessarily, the exercise thereof cannot be deemed ministerial. As to the question of whether the power is validly exercised, the matter is within the province of a writ of certiorari, but certainly, not of mandamus.

It may be true, as argued by petitioner, that Resolution No. 93-27, which was enacted by the Sangguniang Bayan of Hilongos, is not an ordinance but merely a resolution. A municipal ordinance is different from a resolution. An ordinance is a law, but a resolution is merely a declaration of the sentiment or opinion of a lawmaking body on a specific matter. An ordinance possesses a general and permanent character, but a resolution is temporary in nature. Additionally, the two are enacted differently - a third reading is necessary for an ordinance, but not for a resolution, unless decided otherwise by a majority of all the Sanggunian members.[37]

However, the fact that Resolution No. 93-27 is a "mere" resolution can do nil to support petitioner's cause. As stated earlier, the proper action is certiorari to determine whether grave abuse of discretion had been committed on the part of respondent mayor in the refusal to grant petitioner's application. Petitioner's petition for mandamus is incompetent against respondent mayor's discretionary power. Thus:

"Discretion," when applied to public functionaries, means a power or right conferred upon them by law or acting officially, under certain circumstances, uncontrolled by the judgment or conscience of others. A purely ministerial act or duty in contradiction to a discretionary act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment.[38]

#### The Fallo

WHEREFORE, the Petition is DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 40621, dated 7 October 1996 and 13 February 1997, respectively, dismissing Special Civil Action No. H-237 are AFFIRMED. Costs against petitioner.

#### **SO ORDERED.**

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Callejo, Sr., JJ., concur.

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[1] Penned by Associate Justice Conrado M. Vasquez, Jr. with Associate Justice (now Supreme Court Associate Justice) Angelina Sandoval-Gutierrez and Associate Justice Arturo B. Buena, concurring; Rollo, pp. 25-30.

[2] Id. at 32.

[3] Penned by Judge Vicente M. Aujero; Records, pp. 439-444.

[4] Id. at 27.

[5] Id. at 1-26.

[6] SECTION 444. The Chief Executive: Powers, Duties, Functions and Compensation. —

x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the Municipal mayor shall:

x x x x

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

x x x x

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance.

[7] Records, p. 11.

[8] Id. at 10.

[9] Id. at 66.

[10] Entitled, "Resolution Objecting the Approval of a Five Year Management Contract for Arrastre and Stevedoring Services in the Port of Hilongos, Leyte by the Roble Arrastre, Inc."; Id. at 77.

[11] Records, pp. 64-66.

[12] WHEREAS, the Roble Arrastre Inc. applied for a five year contract for arrastre and stevedoring services in the port of Hilongos, [Leyte] with the Philippine Ports Authority;

WHEREAS, a public hearing had already been conducted by the representatives of PPA Manila last March 9, 1993 at the Municipal Multi-Purpose Center;

WHEREAS, during the said public hearing, the shippers were able to air their complaints to the hearing officers of the PPA Manila;

WHEREAS, one of the complaints is the bias (sic) services of Roble Arrastre Inc. to the Gabisan Shipping Lines, a competing shipping lines to Roble Shipping Lines serving the routes of Cebu to Hilongos and vice versa;

WHEREAS, Roble Arrastre Inc. and Roble Shipping Lines are owned and managed by the same family;

WHEREAS, the body finds it logical and ethical not to grant a permit to any group or corporation to engage in arrastre and stevedoring services in the municipal port who also have a shipping line flying (sic) the route of Cebu to Hilongos and Hilongos to Cebu in order to protect the business interests of the shipping industry of our municipality;

NOW, THEREFORE; be it

RESOLVED, as it is hereby resolved to object the approval of the application of Roble Arrastre, Inc. for a five year management contract to engage in arrastre and stevedoring services in the port of Hilongos, Leyte. (Id. at 77.)

[13] Id. at 65-66.

[14] Id. at 74-75.

[15] Id. at 196-200.

[16] Id. at 204.

[17] Id. at 284.

[18] Id. at 315.

[19] Id. at 319.

[20] Erroneously referred to by the RTC as P.D. 875. Should be Presidential Decree No. 857, otherwise known as the "Revised Charter of the Philippine Ports Authority."

[21] Records, pp. 442-443.

[22] Id. at 443-444.

[23] Penned by Judge Leandro T. Loyao, Jr.; Id. at 498.

[24] Supra note 6.

[25] CA rollo, p. 35.

[26] Rollo, p. 29.

[27] CA rollo, pp. 100-101.

[28] Id. at 36.

[29] Lanuza, Jr. v. Yuchengco, G.R. No. 157033, 28 March 2005, 454 SCRA 130, 138; See also Gonzales v. Narvasa, 392 Phil. 518, 522 (2000); Villarico v. Court of Appeals, G.R. No. 132115, 4 January 2002, 373 SCRA 23; King v. Court of Appeals, G.R. No. 158195, 16 December 2005, 478 SCRA 275, 280.

[30] See Salonga v. Cruz Paño, G.R. No. L-59524, 18 February 1985, 134 SCRA 438, 463.

[31] See Alunan III v. Mirasol, 342 Phil. 467, 476 (1997).

[32] Reliance Surety & Insurance Co., Inc. v. Amante, Jr., G.R. No.150994, 30 June 2005, 462 SCRA 399, 415, citing Section 3, Rule 65, Rules of Civil Procedure.

[33] See City of Manila v. Laguio, Jr., G.R. No. 118127, 12 April 2005, 455 SCRA 308, 328; Metropolitan Manila Development Authority v. Garin, G.R. No. 130230, 15 April 2005, 456 SCRA 176, 186-187.

[34] Philippine Telegraph & Telephone Corporation v. National Labor Relations Commission, G.R. No. 147002, 15 April 2005, 456 SCRA 264, 279.

[35] Batangas CATV, Inc. v. Court of Appeals, G.R. No. 138810, 29 September 2004, 439 SCRA 326, 338-339.

[36] Aquilino Q. Pimentel, Jr., the principal author of the Local Government Code of 1991, in his annotations to the Local Government Code, p. 49, citing 62 Corpus Juris Secundum Sec. 128, wrote:

"The police power of a municipal corporation is broad, and has been said to be commensurate with, but not to exceed, the duty to provide for the real needs of the people in their health, safety, comfort, and convenience as consistently as may be with private rights. It extends to all the great public needs, and in a broad sense includes all legislation and almost every function of the municipal government. It covers a wide scope of subjects, and, while it is especially occupied with whatever affects the peace, security, health, morals and the general welfare of the community, it is not limited thereto, but it is broadened to deal with conditions which exist so as to bring out of them the greatest welfare of the people by promoting public convenience or general prosperity, and to everything worthwhile for the preservation of comfort of the inhabitants of the corporation."

[37] *Heirs of Alberto Suguitan v. City of Mandaluyong*, G.R. No. 135087, 14 March 2000, 384 Phil. 676, 691.

[38] F.D. Regalado, *Remedial Law Compendium*, Vol. I, p. 714 (1997), citing *Samson v. Barrios*, 63 Phil. 198; *Lemi v. Valencia*, L-20768, 29 November 1968, 26 SCRA 203; *Meralco Securities Corporation. v. Savellano*, 203 Phil. 173 (1982).

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