

METROPOLITAN MANILA DEVELOPMENT AUTHORITY, PETITIONER, VS. BEL-AIR VILLAGE ASSOCIATION, INC., RESPONDENT.

G.R. No. 135962. March 27, 2000

Ponente: PUNO, J.

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PUNO, J.:

Not infrequently, the government is tempted to take legal shortcuts to solve urgent problems of the people. But even when government is armed with the best of intention, we cannot allow it to run roughshod over the rule of law. Again, we let the hammer fall and fall hard on the illegal attempt of the MMDA to open for public use a private road in a private subdivision. While we hold that the general welfare should be promoted, we stress that it should not be achieved at the expense of the rule of law.

Petitioner MMDA is a government agency tasked with the delivery of basic services in Metro Manila. Respondent Bel-Air Village Association, Inc. (BAVA) is a non-stock, non-profit corporation whose members are homeowners in Bel-Air Village, a private subdivision in Makati City. Respondent BAVA is the registered owner of Neptune Street, a road inside Bel-Air Village.

On December 30, 1995, respondent received from petitioner, through its Chairman, a notice dated December 22, 1995 requesting respondent to open Neptune Street to public vehicular traffic starting January 2, 1996. The notice reads:

"SUBJECT: NOTICE of the Opening of Neptune Street to Traffic

"Dear President Lindo,

"Please be informed that pursuant to the mandate of the MMDA law or Republic Act No. 7924 which requires the Authority to rationalize the use of roads and/or thoroughfares for the safe and convenient movement of persons, Neptune Street shall be opened to vehicular traffic effective January 2, 1996.

"In view whereof, the undersigned requests you to voluntarily open the points of entry and exit on said street.

"Thank you for your cooperation and whatever assistance that may be extended by your association to the MMDA personnel who will be directing traffic in the area.

"Finally, we are furnishing you with a copy of the handwritten instruction of the President on the matter.

"Very truly yours,

PROSPERO I. ORETA

Chairman"[1]

On the same day, respondent was apprised that the perimeter wall separating the subdivision from the adjacent Kalayaan Avenue would be demolished.

On January 2, 1996, respondent instituted against petitioner before the Regional Trial Court, Branch 136, Makati

City, Civil Case No. 96-001 for injunction. Respondent prayed for the issuance of a temporary restraining order and preliminary injunction enjoining the opening of Neptune Street and prohibiting the demolition of the perimeter wall. The trial court issued a temporary restraining order the following day.

On January 23, 1996, after due hearing, the trial court denied issuance of a preliminary injunction.[2] Respondent questioned the denial before the Court of Appeals in CA-G.R. SP No. 39549. The appellate court conducted an ocular inspection of Neptune Street[3] and on February 13, 1996, it issued a writ of preliminary injunction enjoining the implementation of the MMDA's proposed action.[4]

On January 28, 1997, the appellate court rendered a Decision on the merits of the case finding that the MMDA has no authority to order the opening of Neptune Street, a private subdivision road and cause the demolition of its perimeter walls. It held that the authority is lodged in the City Council of Makati by ordinance. The decision disposed of as follows:

"WHEREFORE, the Petition is GRANTED; the challenged Order dated January 23, 1995, in Civil Case No. 96-001, is SET ASIDE and the Writ of Preliminary Injunction issued on February 13, 1996 is hereby made permanent.

"For want of sustainable substantiation, the Motion to Cite Roberto L. del Rosario in contempt is denied.[5]

"No pronouncement as to costs.

"SO ORDERED."[6]

The Motion for Reconsideration of the decision was denied on September 28, 1998. Hence, this recourse.

Petitioner MMDA raises the following questions:

"I

HAS THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY (MMDA) THE MANDATE TO OPEN NEPTUNE STREET TO PUBLIC TRAFFIC PURSUANT TO ITS REGULATORY AND POLICE POWERS?

II

IS THE PASSAGE OF AN ORDINANCE A CONDITION PRECEDENT BEFORE THE MMDA MAY ORDER THE OPENING OF SUBDIVISION ROADS TO PUBLIC TRAFFIC?

III

IS RESPONDENT BEL-AIR VILLAGE ASSOCIATION, INC. ESTOPPED FROM DENYING OR ASSAILING THE AUTHORITY OF THE MMDA TO OPEN THE SUBJECT STREET?

V

WAS RESPONDENT DEPRIVED OF DUE PROCESS DESPITE THE SEVERAL MEETINGS HELD BETWEEN MMDA AND THE AFFECTED BEL-AIR RESIDENTS AND BAVA OFFICERS?

V

HAS RESPONDENT COME TO COURT WITH UNCLEAN HANDS?"[7]

Neptune Street is owned by respondent BAVA. It is a private road inside Bel-Air Village, a private residential subdivision in the heart of the financial and commercial district of Makati City. It runs parallel to Kalayaan Avenue, a national road open to the general public. Dividing the two (2) streets is a concrete perimeter wall

approximately fifteen (15) feet high. The western end of Neptune Street intersects Nicanor Garcia, formerly Reposo Street, a subdivision road open to public vehicular traffic, while its eastern end intersects Makati Avenue, a national road. Both ends of Neptune Street are guarded by iron gates.

Petitioner MMDA claims that it has the authority to open Neptune Street to public traffic because it is an agent of the state endowed with police power in the delivery of basic services in Metro Manila. One of these basic services is traffic management which involves the regulation of the use of thoroughfares to insure the safety, convenience and welfare of the general public. It is alleged that the police power of MMDA was affirmed by this Court in the consolidated cases of *Sangalang v. Intermediate Appellate Court*.^[8] From the premise that it has police power, it is now urged that there is no need for the City of Makati to enact an ordinance opening Neptune street to the public.^[9]

Police power is an inherent attribute of sovereignty. It has been defined as the power vested by the Constitution in the legislature to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the Constitution, as they shall judge to be for the good and welfare of the commonwealth, and for the subjects of the same.^[10] The power is plenary and its scope is vast and pervasive, reaching and justifying measures for public health, public safety, public morals, and the general welfare.^[11]

It bears stressing that police power is lodged primarily in the National Legislature.^[12] It cannot be exercised by any group or body of individuals not possessing legislative power.^[13] The National Legislature, however, may delegate this power to the President and administrative boards as well as the lawmaking bodies of municipal corporations or local government units.^[14] Once delegated, the agents can exercise only such legislative powers as are conferred on them by the national lawmaking body.^[15]

A local government is a "political subdivision of a nation or state which is constituted by law and has substantial control of local affairs."^[16] The Local Government Code of 1991 defines a local government unit as a "body politic and corporate"^[17]-- one endowed with powers as a political subdivision of the National Government and as a corporate entity representing the inhabitants of its territory.^[18] Local government units are the provinces, cities, municipalities and barangays.^[19] They are also the territorial and political subdivisions of the state.^[20]

Our Congress delegated police power to the local government units in the Local Government Code of 1991. This delegation is found in Section 16 of the same Code, known as the general welfare clause, viz:

"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."^[21]

Local government units exercise police power through their respective legislative bodies. The legislative body of the provincial government is the *sangguniang panlalawigan*, that of the city government is the *sangguniang panlungsod*, that of the municipal government is the *sangguniang bayan*, and that of the barangay is the *sangguniang barangay*. The Local Government Code of 1991 empowers the *sangguniang panlalawigan*, *sangguniang panlungsod* and *sangguniang bayan* to "enact ordinances, approve resolutions and appropriate funds for the general welfare of the [province, city or municipality, as the case may be], and its inhabitants pursuant to

Section 16 of the Code and in the proper exercise of the corporate powers of the [province, city municipality] provided under the Code x x x." [22] The same Code gives the sangguniang barangay the power to "enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and to promote the general welfare of the inhabitants thereon." [23]

Metropolitan or Metro Manila is a body composed of several local government units - i.e., twelve (12) cities and five (5) municipalities, namely, the cities of Caloocan, Manila, Mandaluyong, Makati, Pasay, Pasig, Quezon, Muntinlupa, Las Pinas, Marikina, Paranaque and Valenzuela, and the municipalities of Malabon, , Navotas, , Pateros, San Juan and Taguig. With the passage of Republic Act (R. A.) No. 7924 [24] in 1995, Metropolitan Manila was declared as a "special development and administrative region" and the Administration of "metro-wide" basic services affecting the region placed under "a development authority" referred to as the MMDA. [25]

"Metro-wide services" are those "services which have metro-wide impact and transcend local political boundaries or entail huge expenditures such that it would not be viable for said services to be provided by the individual local government units comprising Metro Manila." [26] There are seven (7) basic metro-wide services and the scope of these services cover the following: (1) development planning; (2) transport and traffic management; (3) solid waste disposal and management; (4) flood control and sewerage management; (5) urban renewal, zoning and land use planning, and shelter services; (6) health and sanitation, urban protection and pollution control; and (7) public safety. The basic service of transport and traffic management includes the following:

"(b) Transport and traffic management which include the formulation, coordination, and monitoring of policies, standards, programs and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares, and promotion of safe and convenient movement of persons and goods; provision for the mass transport system and the institution of a system to regulate road users; administration and implementation of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metropolitan Manila;" [27]

In the delivery of the seven (7) basic services, the MMDA has the following powers and functions:

"Sec. 5. Functions and powers of the Metro Manila Development Authority.--The MMDA shall:

(a) Formulate, coordinate and regulate the implementation of medium and long-term plans and programs for the delivery of metro-wide services, land use and physical development within Metropolitan Manila, consistent with national development objectives and priorities;

(b) Prepare, coordinate and regulate the implementation of medium-term investment programs for metro-wide services which shall indicate sources and uses of funds for priority programs and projects, and which shall include the packaging of projects and presentation to funding institutions; Esmc

(c) Undertake and manage on its own metro-wide programs and projects for the delivery of specific services under its jurisdiction, subject to the approval of the Council. For this purpose, MMDA can create appropriate project management offices;

(d) Coordinate and monitor the implementation of such plans, programs and projects in Metro Manila; identify bottlenecks and adopt solutions to problems of implementation;

(e) The MMDA shall set the policies concerning traffic in Metro Manila, and shall coordinate and regulate the implementation of all programs and projects concerning traffic management, specifically pertaining to enforcement, engineering and education. Upon request, it shall be extended assistance and cooperation, including but not limited to, assignment of personnel, by all other government agencies and offices concerned;

(f) Install and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of

violations of traffic rules and regulations, whether moving or non-moving in nature, and confiscate and suspend or revoke drivers' licenses in the enforcement of such traffic laws and regulations, the provisions of RA 4136 and PD 1605 to the contrary notwithstanding. For this purpose, the Authority shall impose all traffic laws and regulations in Metro Manila, through its traffic operation center, and may deputize members of the PNP, traffic enforcers of local government units, duly licensed security guards, or members of non-governmental organizations to whom may be delegated certain authority, subject to such conditions and requirements as the Authority may impose; and

(g) Perform other related functions required to achieve the objectives of the MMDA, including the undertaking of delivery of basic services to the local government units, when deemed necessary subject to prior coordination with and consent of the local government unit concerned."

The implementation of the MMDA's plans, programs and projects is undertaken by the local government units, national government agencies, accredited people's organizations, non-governmental organizations, and the private sector as well as by the MMDA itself. For this purpose, the MMDA has the power to enter into contracts, memoranda of agreement and other cooperative arrangements with these bodies for the delivery of the required services within Metro Manila.[28]

The governing board of the MMDA is the Metro Manila Council. The Council is composed of the mayors of the component 12 cities and 5 municipalities, the president of the Metro Manila Vice-Mayors' League and the president of the Metro Manila Councilors' League.[29] The Council is headed by a Chairman who is appointed by the President and vested with the rank of cabinet member. As the policy-making body of the MMDA, the Metro Manila Council approves metro-wide plans, programs and projects, and issues the necessary rules and regulations for the implementation of said plans; it approves the annual budget of the MMDA and promulgates the rules and regulations for the delivery of basic services, collection of service and regulatory fees, fines and penalties. These functions are particularly enumerated as follows:

"Sec. 6. Functions of the Metro Manila Council. -

(a) The Council shall be the policy-making body of the MMDA;

(b) It shall approve metro-wide plans, programs and projects and issue rules and regulations deemed necessary by the MMDA to carry out the purposes of this Act;

(c) It may increase the rate of allowances and per diems of the members of the Council to be effective during the term of the succeeding Council. It shall fix the compensation of the officers and personnel of the MMDA, and approve the annual budget thereof for submission to the Department of Budget and Management (DBM);

(d) It shall promulgate rules and regulations and set policies and standards for metro-wide application governing the delivery of basic services, prescribe and collect service and regulatory fees, and impose and collect fines and penalties."

Clearly, the scope of the MMDA's function is limited to the delivery of the seven (7) basic services. One of these is transport and traffic management which includes the formulation and monitoring of policies, standards and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares and promotion of the safe movement of persons and goods. It also covers the mass transport system and the institution of a system of road regulation, the administration of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metro Manila for traffic violations. Under this service, the MMDA is expressly authorized "to set the policies concerning traffic" and "coordinate and regulate the implementation of all traffic management programs." In addition, the MMDA may "install and administer a single ticketing system," fix, impose and collect fines and penalties for all traffic

violations.

It will be noted that the powers of the MMDA are limited to the following acts: formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installation of a system and administration. There is no syllable in R. A. No. 7924 that grants the MMDA police power, let alone legislative power. Even the Metro Manila Council has not been delegated any legislative power. Unlike the legislative bodies of the local government units, there is no provision in R. A. No. 7924 that empowers the MMDA or its Council to "enact ordinances, approve resolutions and appropriate funds for the general welfare" of the inhabitants of Metro Manila. The MMDA is, as termed in the charter itself, a "development authority." [30] It is an agency created for the purpose of laying down policies and coordinating with the various national government agencies, people's organizations, non-governmental organizations and the private sector for the efficient and expeditious delivery of basic services in the vast metropolitan area. All its functions are administrative in nature and these are actually summed up in the charter itself, viz:

"Sec. 2. Creation of the Metropolitan Manila Development Authority. -- x x x.

The MMDA shall perform planning, monitoring and coordinative functions, and in the process exercise regulatory and supervisory authority over the delivery of metro-wide services within Metro Manila, without diminution of the autonomy of the local government units concerning purely local matters." [31]

Petitioner cannot seek refuge in the cases of *Sangalang v. Intermediate Appellate Court* [32] where we upheld a zoning ordinance issued by the Metro Manila Commission (MMC), the predecessor of the MMDA, as an exercise of police power. The first *Sangalang* decision was on the merits of the petition, [33] while the second decision denied reconsideration of the first case and in addition discussed the case of *Yabut v. Court of Appeals*. [34]

Sangalang v. IAC involved five (5) consolidated petitions filed by respondent BAVA and three residents of Bel-Air Village against other residents of the Village and the Ayala Corporation, formerly the Makati Development Corporation, as the developer of the subdivision. The petitioners sought to enforce certain restrictive easements in the deeds of sale over their respective lots in the subdivision. These were the prohibition on the setting up of commercial and advertising signs on the lots, and the condition that the lots be used only for residential purposes. Petitioners alleged that respondents, who were residents along Jupiter Street of the subdivision, converted their residences into commercial establishments in violation of the "deed restrictions," and that respondent Ayala Corporation ushered in the full commercialization" of Jupiter Street by tearing down the perimeter wall that separated the commercial from the residential section of the village. [35]

The petitions were dismissed based on Ordinance No. 81 of the Municipal Council of Makati and Ordinance No. 81-01 of the Metro Manila Commission (MMC). Municipal Ordinance No. 81 classified Bel-Air Village as a Class A Residential Zone, with its boundary in the south extending to the center line of Jupiter Street. The Municipal Ordinance was adopted by the MMC under the Comprehensive Zoning Ordinance for the National Capital Region and promulgated as MMC Ordinance No. 81-01. Bel-Air Village was indicated therein as bounded by Jupiter Street and the block adjacent thereto was classified as a High Intensity Commercial Zone. [36]

We ruled that since both Ordinances recognized Jupiter Street as the boundary between Bel-Air Village and the commercial district, Jupiter Street was not for the exclusive benefit of Bel-Air residents. We also held that the perimeter wall on said street was constructed not to separate the residential from the commercial blocks but simply for security reasons, hence, in tearing down said wall, Ayala Corporation did not violate the "deed restrictions" in the deeds of sale.

We upheld the ordinances, specifically MMC Ordinance No. 81-01, as a legitimate exercise of police power. [37] The power of the MMC and the Makati Municipal Council to enact zoning ordinances for the general welfare

prevailed over the "deed restrictions".

In the second Sangalang/Yabut decision, we held that the opening of Jupiter Street was warranted by the demands of the common good in terms of "traffic decongestion and public convenience." Jupiter was opened by the Municipal Mayor to alleviate traffic congestion along the public streets adjacent to the Village.[38] The same reason was given for the opening to public vehicular traffic of Orbit Street, a road inside the same village. The destruction of the gate in Orbit Street was also made under the police power of the municipal government. The gate, like the perimeter wall along Jupiter, was a public nuisance because it hindered and impaired the use of property, hence, its summary abatement by the mayor was proper and legal.[39]

Contrary to petitioner's claim, the two Sangalang cases do not apply to the case at bar. Firstly, both involved zoning ordinances passed by the municipal council of Makati and the MMC. In the instant case, the basis for the proposed opening of Neptune Street is contained in the notice of December 22, 1995 sent by petitioner to respondent BAVA, through its president. The notice does not cite any ordinance or law, either by the Sangguniang Panlungsod of Makati City or by the MMDA, as the legal basis for the proposed opening of Neptune Street. Petitioner MMDA simply relied on its authority under its charter "to rationalize the use of roads and/or thoroughfares for the safe and convenient movement of persons." Rationalizing the use of roads and thoroughfares is one of the acts that fall within the scope of transport and traffic management. By no stretch of the imagination, however, can this be interpreted as an express or implied grant of ordinance-making power, much less police power.

Secondly, the MMDA is not the same entity as the MMC in Sangalang. Although the MMC is the forerunner of the present MMDA, an examination of Presidential Decree (P. D.) No. 824, the charter of the MMC, shows that the latter possessed greater powers which were not bestowed on the present MMDA.

Metropolitan Manila was first created in 1975 by Presidential Decree (P.D.) No. 824. It comprised the Greater Manila Area composed of the contiguous four (4) cities of Manila, Quezon, Pasay and Caloocan, and the thirteen (13) municipalities of Makati, Mandaluyong, San Juan, Las Pinas, Malabon, Navotas, Pasig, Pateros, Paranaque, Marikina, Muntinlupa and Taguig in the province of Rizal, and Valenzuela in the province of Bulacan.[40] Metropolitan Manila was created as a response to the finding that the rapid growth of population and the increase of social and economic requirements in these areas demand a call for simultaneous and unified development; that the public services rendered by the respective local governments could be administered more efficiently and economically if integrated under a system of central planning; and this coordination, "especially in the maintenance of peace and order and the eradication of social and economic ills that fanned the flames of rebellion and discontent [were] part of reform measures under Martial Law essential to the safety and security of the State." [41]

Metropolitan Manila was established as a "public corporation" with the following powers:

"Section 1. Creation of the Metropolitan Manila.--There is hereby created a public corporation, to be known as the Metropolitan Manila, vested with powers and attributes of a corporation including the power to make contracts, sue and be sued, acquire, purchase, expropriate, hold, transfer and dispose of property and such other powers as are necessary to carry out its purposes. The Corporation shall be administered by a Commission created under this Decree." [42]

The administration of Metropolitan Manila was placed under the Metro Manila Commission (MMC) vested with the following powers:

"Sec. 4. Powers and Functions of the Commission. - The Commission shall have the following powers and functions:

1. To act as a central government to establish and administer programs and provide services common to the area;
2. To levy and collect taxes and special assessments, borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness. Existing tax measures should, however, continue to be operative until otherwise modified or repealed by the Commission;
3. To charge and collect fees for the use of public service facilities;
4. To appropriate money for the operation of the metropolitan government and review appropriations for the city and municipal units within its jurisdiction with authority to disapprove the same if found to be not in accordance with the established policies of the Commission, without prejudice to any contractual obligation of the local government units involved existing at the time of approval of this Decree;
5. To review, amend, revise or repeal all ordinances, resolutions and acts of cities and municipalities within Metropolitan Manila;
6. To enact or approve ordinances, resolutions and to fix penalties for any violation thereof which shall not exceed a fine of P10,000.00 or imprisonment of six years or both such fine and imprisonment for a single offense;
7. To perform general administrative, executive and policy-making functions;
8. To establish a fire control operation center, which shall direct the fire services of the city and municipal governments in the metropolitan area;
9. To establish a garbage disposal operation center, which shall direct garbage collection and disposal in the metropolitan area;
10. To establish and operate a transport and traffic center, which shall direct traffic activities; Jjjuris
11. To coordinate and monitor governmental and private activities pertaining to essential services such as transportation, flood control and drainage, water supply and sewerage, social, health and environmental services, housing, park development, and others;
12. To insure and monitor the undertaking of a comprehensive social, economic and physical planning and development of the area;
13. To study the feasibility of increasing barangay participation in the affairs of their respective local governments and to propose to the President of the Philippines definite programs and policies for implementation;
14. To submit within thirty (30) days after the close of each fiscal year an annual report to the President of the Philippines and to submit a periodic report whenever deemed necessary; and
15. To perform such other tasks as may be assigned or directed by the President of the Philippines."

The MMC was the "central government" of Metro Manila for the purpose of establishing and administering programs providing services common to the area. As a "central government" it had the power to levy and collect taxes and special assessments, the power to charge and collect fees; the power to appropriate money for its operation, and at the same time, review appropriations for the city and municipal units within its jurisdiction. It was bestowed the power to enact or approve ordinances, resolutions and fix penalties for violation of such ordinances and resolutions. It also had the power to review, amend, revise or repeal all ordinances, resolutions and acts of any of the four (4) cities and thirteen (13) municipalities comprising Metro Manila.

P. D. No. 824 further provided:

"Sec. 9. Until otherwise provided, the governments of the four cities and thirteen municipalities in the Metropolitan Manila shall continue to exist in their present form except as may be inconsistent with this Decree. The members of the existing city and municipal councils in Metropolitan Manila shall, upon promulgation of this Decree, and until December 31, 1975, become members of the Sangguniang Bayan which is hereby created for every city and municipality of Metropolitan Manila.

In addition, the Sangguniang Bayan shall be composed of as many barangay captains as may be determined and chosen by the Commission, and such number of representatives from other sectors of the society as may be appointed by the President upon recommendation of the Commission.

x x x.

The Sangguniang Bayan may recommend to the Commission ordinances, resolutions or such measures as it may adopt; Provided, that no such ordinance, resolution or measure shall become effective, until after its approval by the Commission; and Provided further, that the power to impose taxes and other levies, the power to appropriate money and the power to pass ordinances or resolutions with penal sanctions shall be vested exclusively in the Commission."

The creation of the MMC also carried with it the creation of the Sangguniang Bayan. This was composed of the members of the component city and municipal councils, barangay captains chosen by the MMC and sectoral representatives appointed by the President. The Sangguniang Bayan had the power to recommend to the MMC the adoption of ordinances, resolutions or measures. It was the MMC itself, however, that possessed legislative powers. All ordinances, resolutions and measures recommended by the Sangguniang Bayan were subject to the MMC's approval. Moreover, the power to impose taxes and other levies, the power to appropriate money, and the power to pass ordinances or resolutions with penal sanctions were vested exclusively in the MMC.

Thus, Metropolitan Manila had a "central government," i.e., the MMC which fully possessed legislative and police powers. Whatever legislative powers the component cities and municipalities had were all subject to review and approval by the MMC.

After President Corazon Aquino assumed power, there was a clamor to restore the autonomy of the local government units in Metro Manila. Hence, Sections 1 and 2 of Article X of the 1987 Constitution provided:

"Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as herein provided.

Section 2. The territorial and political subdivisions shall enjoy local autonomy."

The Constitution, however, recognized the necessity of creating metropolitan regions not only in the existing National Capital Region but also in potential equivalents in the Visayas and Mindanao.[43] Section 11 of the same Article X thus provided:

"Section 11. The Congress may, by law, create special metropolitan political subdivisions, subject to a plebiscite as set forth in Section 10 hereof. The component cities and municipalities shall retain their basic autonomy and shall be entitled to their own local executives and legislative assemblies. The jurisdiction of the metropolitan authority that will thereby be created shall be limited to basic services requiring coordination."

The Constitution itself expressly provides that Congress may, by law, create "special metropolitan political subdivisions" which shall be subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected; the jurisdiction of this subdivision shall be limited to basic services requiring coordination; and

the cities and municipalities comprising this subdivision shall retain their basic autonomy and their own local executive and legislative assemblies.[44] Pending enactment of this law, the Transitory Provisions of the Constitution gave the President of the Philippines the power to constitute the Metropolitan Authority, viz:

"Section 8. Until otherwise provided by Congress, the President may constitute the Metropolitan Authority to be composed of the heads of all local government units comprising the Metropolitan Manila area." [45]

In 1990, President Aquino issued Executive Order (E. O.) No. 392 and constituted the Metropolitan Manila Authority (MMA). The powers and functions of the MMC were devolved to the MMA.[46] It ought to be stressed, however, that not all powers and functions of the MMC were passed to the MMA. The MMA's power was limited to the "delivery of basic urban services requiring coordination in Metropolitan Manila." [47] The MMA's governing body, the Metropolitan Manila Council, although composed of the mayors of the component cities and municipalities, was merely given the power of: (1) formulation of policies on the delivery of basic services requiring coordination and consolidation; and (2) promulgation of resolutions and other issuances, approval of a code of basic services and the exercise of its rule-making power.[48]

Under the 1987 Constitution, the local government units became primarily responsible for the governance of their respective political subdivisions. The MMA's jurisdiction was limited to addressing common problems involving basic services that transcended local boundaries. It did not have legislative power. Its power was merely to provide the local government units technical assistance in the preparation of local development plans. Any semblance of legislative power it had was confined to a "review [of] legislation proposed by the local legislative assemblies to ensure consistency among local governments and with the comprehensive development plan of Metro Manila," and to "advise the local governments accordingly." [49]

When R.A. No. 7924 took effect, Metropolitan Manila became a "special development and administrative region" and the MMDA a "special development authority" whose functions were "without prejudice to the autonomy of the affected local government units." The character of the MMDA was clearly defined in the legislative debates enacting its charter.

R. A. No. 7924 originated as House Bill No. 14170/ 11116 and was introduced by several legislators led by Dante Tinga, Roilo Golez and Feliciano Belmonte. It was presented to the House of Representatives by the Committee on Local Governments chaired by Congressman Ciriaco R. Alfelor. The bill was a product of Committee consultations with the local government units in the National Capital Region (NCR), with former Chairmen of the MMC and MMA,[50] and career officials of said agencies. When the bill was first taken up by the Committee on Local Governments, the following debate took place:

"THE CHAIRMAN [Hon. Ciriaco Alfelor]: Okay, Let me explain. This has been debated a long time ago, you know. It's a special... we can create a special metropolitan political subdivision.

Actually, there are only six (6) political subdivisions provided for in the Constitution: barangay, municipality, city, province, and we have the Autonomous Region of Mindanao and we have the Cordillera. So we have 6. Now....

HON. [Elias] LOPEZ: May I interrupt, Mr. Chairman. In the case of the Autonomous Region, that is also specifically mandated by the Constitution.

THE CHAIRMAN: That's correct. But it is considered to be a political subdivision. What is the meaning of a political subdivision? Meaning to say, that it has its own government, it has its own political personality, it has the power to tax, and all governmental powers: police power and everything. All right. Authority is different; because it does not have its own government. It is only a council, it is an organization of political subdivision, powers, `no, which is not imbued with any political power.

If you go over Section 6, where the powers and functions of the Metro Manila Development Authority, it is purely coordinative. And it provides here that the council is policy-making. All right.

Under the Constitution is a Metropolitan Authority with coordinative power. Meaning to say, it coordinates all of the different basic services which have to be delivered to the constituency. All right.

There is now a problem. Each local government unit is given its respective... as a political subdivision. Kalookan has its powers, as provided for and protected and guaranteed by the Constitution. All right, the exercise. However, in the exercise of that power, it might be deleterious and disadvantageous to other local government units. So, we are forming an authority where all of these will be members and then set up a policy in order that the basic services can be effectively coordinated. All right. justice

Of course, we cannot deny that the MMDA has to survive. We have to provide some funds, resources. But it does not possess any political power. We do not elect the Governor. We do not have the power to tax. As a matter of fact, I was trying to intimate to the author that it must have the power to sue and be sued because it coordinates. All right. It coordinates practically all these basic services so that the flow and the distribution of the basic services will be continuous. Like traffic, we cannot deny that. It's before our eyes. Sewerage, flood control, water system, peace and order, we cannot deny these. It's right on our face. We have to look for a solution. What would be the right solution? All right, we envision that there should be a coordinating agency and it is called an authority. All right, if you do not want to call it an authority, it's alright. We may call it a council or maybe a management agency.

x x x."[51]

Clearly, the MMDA is not a political unit of government. The power delegated to the MMDA is that given to the Metro Manila Council to promulgate administrative rules and regulations in the implementation of the MMDA's functions. There is no grant of authority to enact ordinances and regulations for the general welfare of the inhabitants of the metropolis. This was explicitly stated in the last Committee deliberations prior to the bill's presentation to Congress. Thus:

"THE CHAIRMAN: Yeah, but we have to go over the suggested revision. I think this was already approved before, but it was reconsidered in view of the proposals, set-up, to make the MMDA stronger. Okay, so if there is no objection to paragraph "f"... And then next is paragraph "b," under Section 6. "It shall approve metro-wide plans, programs and projects and issue ordinances or resolutions deemed necessary by the MMDA to carry out the purposes of this Act." Do you have the powers? Does the MMDA ... because that takes the form of a local government unit, a political subdivision.

HON. [Feliciano] BELMONTE: Yes, I believe so, your Honor. When we say that it has the policies, it's very clear that those policies must be followed. Otherwise, what's the use of empowering it to come out with policies. Now, the policies may be in the form of a resolution or it may be in the form of an ordinance. The term "ordinance" in this case really gives it more teeth, your honor. Otherwise, we are going to see a situation where you have the power to adopt the policy but you cannot really make it stick as in the case now, and I think here is Chairman Bunye. I think he will agree that that is the case now. You've got the power to set a policy, the body wants to follow your policy, then we say let's call it an ordinance and see if they will not follow it.

THE CHAIRMAN: That's very nice. I like that. However, there is a constitutional impediment. You are making this MMDA a political subdivision. The creation of the MMDA would be subject to a plebiscite. That is what I'm trying to avoid. I've been trying to avoid this kind of predicament. Under the Constitution it states: if it is a political subdivision, once it is created it has to be subject to a plebiscite. I'm trying to make this as administrative. That's why we place the Chairman as a cabinet rank.

HON. BELMONTE: All right, Mr. Chairman, okay, what you are saying there is

THE CHAIRMAN: In setting up ordinances, it is a political exercise. Believe me.

HON. [Elias] LOPEZ: Mr. Chairman, it can be changed into issuances of rules and regulations. That would be ... it shall also be enforced.

HON. BELMONTE: Okay, I will

HON. LOPEZ: And you can also say that violation of such rule, you impose a sanction. But you know, ordinance has a different legal connotation.

HON. BELMONTE: All right. I defer to that opinion, your Honor.

THE CHAIRMAN: So instead of ordinances, say rules and regulations.

HON. BELMONTE: Or resolutions. Actually, they are actually considering resolutions now.

THE CHAIRMAN: Rules and resolutions.

HON. BELMONTE: Rules, regulations and resolutions."^[52]

The draft of H. B. No. 14170/ 11116 was presented by the Committee to the House of Representatives. The explanatory note to the bill stated that the proposed MMDA is a "development authority" which is a "national agency, not a political government unit."^[53] The explanatory note was adopted as the sponsorship speech of the Committee on Local Governments. No interpellations or debates were made on the floor and no amendments introduced. The bill was approved on second reading on the same day it was presented.^[54]

When the bill was forwarded to the Senate, several amendments were made. These amendments, however, did not affect the nature of the MMDA as originally conceived in the House of Representatives.^[55]

It is thus beyond doubt that the MMDA is not a local government unit or a public corporation endowed with legislative power. It is not even a "special metropolitan political subdivision" as contemplated in Section 11, Article X of the Constitution. The creation of a "special metropolitan political subdivision" requires the approval by a majority of the votes cast in a plebiscite in the political units directly affected.^[56] R. A. No. 7924 was not submitted to the inhabitants of Metro Manila in a plebiscite. The Chairman of the MMDA is not an official elected by the people, but appointed by the President with the rank and privileges of a cabinet member. In fact, part of his function is to perform such other duties as may be assigned to him by the President,^[57] whereas in local government units, the President merely exercises supervisory authority. This emphasizes the administrative character of the MMDA.

Clearly then, the MMC under P. D. No. 824 is not the same entity as the MMDA under R. A. No. 7924. Unlike the MMC, the MMDA has no power to enact ordinances for the welfare of the community. It is the local government units, acting through their respective legislative councils, that possess legislative power and police power. In the case at bar, the Sangguniang Panlungsod of Makati City did not pass any ordinance or resolution ordering the opening of Neptune Street, hence, its proposed opening by petitioner MMDA is illegal and the respondent Court of Appeals did not err in so ruling. We desist from ruling on the other issues as they are unnecessary.

We stress that this decision does not make light of the MMDA's noble efforts to solve the chaotic traffic condition in Metro Manila. Everyday, traffic jams and traffic bottlenecks plague the metropolis. Even our once sprawling boulevards and avenues are now crammed with cars while city streets are clogged with motorists and pedestrians. Traffic has become a social malaise affecting our people's productivity and the efficient delivery of goods and services in the country. The MMDA was created to put some order in the metropolitan transportation system but

unfortunately the powers granted by its charter are limited. Its good intentions cannot justify the opening for public use of a private street in a private subdivision without any legal warrant. The promotion of the general welfare is not antithetical to the preservation of the rule of law.

IN VIEW WHEREOF, the petition is denied. The Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 39549 are affirmed.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Annex "D" to the CA petition, Court of Appeals (CA) Rollo, p. 27.

[2] Annex "J" to Petition, Rollo, pp. 76-78.

[3] Minutes of the Ocular Inspection, Court of Appeals Rollo, pp. 193-194.

[4] CA Rollo, p. 332.

[5] Roberto L. del Rosario is a resident of Neptune Street who allegedly spearheaded a campaign to open Neptune Street to the public-- Motion to Cite in Contempt, CA Rollo, pp. 412-415.

[6] CA decision, p. 10, Rollo, p. 61.

[7] Petition, p. 15, Rollo, p. 24.

[8] 168 SCRA 634 (1988).

[9] Petition, p. 24, Rollo, p. 33.

[10] United States v. Pompeya, 31 Phil. 245, 253-254 [1915]; Churchill v. Rafferty, 32 Phil. 580, 603 [1915]; People v. Pomar, 46 Phil. 440, 447 [1924].

[11] Bernas, The 1987 Constitution of the Philippines, A Commentary, pp. 95-98 [1996].

[12] Cruz, Constitutional Law, p. 44 [1995].

[13] Id., see also 16 C.J.S., Constitutional Law, Sec. 177 [1956 ed.].

[14] Cruz, supra, at 44; Binay v. Domingo, 201 SCRA 508, 513-514 [1991].

[15] Magtajas v. Pryce Properties, 234 SCRA 255, 272 [1994].

[16] Bernas, supra, at 959, citing UP Law Center Revision Project, Part II, 712 [1970] citing Sady, "Improvement of Local Government Administration for Development Purpose," Journal of Local Administration Overseas 135 [July 1962].

[17] Section 15, Book I, Local Government Code of 1991

[18] Id.

[19] Titles I, II, III, IV, Book III, Local Government Code of 1991.

[20] Section 1, Article X, 1987 Constitution.

[21] Section 16, Book I, Local Government Code of 1991; also cited in Magtajas v. Pryce Properties Corp., Inc.

supra, at 264-265.

[22] Sections 468 (a), 458 (a), and 447 (a), Book III, Local Government Code of 1991.

[23] Section 391 (a), Book III, Local Government Code of 1991.

[24] Entitled "An Act Creating the Metropolitan Manila Development Authority, Defining its Powers and Functions, Providing Funds Therefor and for Other Purposes."

[25] Section 1, R.A. 7924.

[26] Section 3, par. 1, R. A. 7924.

[27] Section 3 (b), supra; emphasis supplied.

[28] Section 9, paragraph 5, supra.

[29] Section 4, supra. Non-voting members of the Council are the heads of the Department of Transportation and Communications (DOTC), Department of Public Works and Highways (DPWH), Department of Tourism (DOT), Department of Budget and Management (DBM), Housing and Urban Development Coordinating Committee (HUDCC), and the Philippine National Police (PNP) or their duly authorized representatives.

[30] Section 1, R.A. 7924.

[31] Section 2, supra.

[32] Op cit.

[33] 168 SCRA 634 [1988].

[34] 176 SCRA 719 [1989].

[35] 168 SCRA 634, 654-655.

[36] Id. at 643.

[37] Id, at 730.

[38] Id. at 723.

[39] Like the perimeter wall along Jupiter Street--Id. at 734.

[40] Section 2, P.D. 824.

[41] Whereas Clauses, P.D. 824.

[42] Section 1, P.D. 824; emphasis supplied.

[43] Speech of then Constitutional Commissioner Blas Ople, see Bernas, The Intent of the 1986 Constitution Writers, pp. 706-707 [1995].

[44] Section 11, Article X, 1987 Constitution.

[45] Section 8, Article XVIII, 1987 Constitution.

[46] Section 3, E.O. 392.

[47] Section 1, supra.

[48] Section 2, *supra*.

[49] Section 6, *supra*.

[50] Chairmen Ismael Mathay, Jr. and Ignacio Bunye.

[51] Deliberations of the Committee on Local Government, House of Representatives, Congress of the Philippines, November 10, 1993, pp. 46-48.

[52] Deliberations of the Committee on Local Governments, House of Representatives, Congress of the Philippines, November 9, 1994, pp. 68-70.

[53] Explanatory Note to H. B. 11116, p. 3.

[54] H.B. 14170/ 11116, Sponsorship and Debates, December 20, 1994.

[55] Compare H.B. 14170/ 11116 with R. A. 7924; see Senate Amendments, February 21, 1995.

[56] Section 10, Article X of the 1987 Constitution reads:

Sec. 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected."

[57] Section 7 (g), R.A. 7924.

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