

LUCENA GRAND CENTRAL TERMINAL, INC., PETITIONER, VS. JAC LINER, INC., RESPONDENT.

G.R. NO. 148339. February 23, 2005

Ponente: CARPIO-MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148339/>

CARPIO-MORALES, J.:

Respondent, JAC Liner, Inc., a common carrier operating buses which ply various routes to and from Lucena City, assailed, via a petition for prohibition and injunction[1] against the City of Lucena, its Mayor, and the Sangguniang Panlungsod of Lucena before the Regional Trial Court (RTC) of Lucena City, City Ordinance Nos. 1631 and 1778 as unconstitutional on the ground that, inter alia, the same constituted an invalid exercise of police power, an undue taking of private property, and a violation of the constitutional prohibition against monopolies. The salient provisions of the ordinances are:

Ordinance No. 1631[2]

AN ORDINANCE GRANTING THE LUCENA GRAND CENTRAL TERMINAL, INC., A FRANCHISE TO CONSTRUCT, FINANCE, ESTABLISH, OPERATE AND MAINTAIN A COMMON BUS-JEEPNEY TERMINAL FACILITY IN THE CITY OF LUCENA

x x x

SECTION 1. – There is hereby granted to the Lucena Grand Central Terminal, Inc., its successors or assigns, hereinafter referred to as the “grantee”, a franchise to construct, finance, establish, operate, and maintain a common bus-jeepney terminal facility in the City of Lucena.

SECTION 2. – This franchise shall continue for a period of twenty-five years, counted from the approval of this Ordinance, and renewable at the option of the grantee for another period of twenty-five (25) years upon such expiration.

x x x

SECTION 4. – Responsibilities and Obligations of the City Government of Lucena. – During the existence of the franchise, the City Government of Lucena shall have the following responsibilities and obligations:

x x x

(c) It shall not grant any third party any privilege and/or concession to operate a bus, mini-bus and/or jeepney terminal.

x x x

Ordinance No. 1778[3]

AN ORDINANCE REGULATING THE ENTRANCE TO THE CITY OF LUCENA OF ALL BUSES, MINI-BUSES AND OUT-OF-TOWN PASSENGER JEEPNEYS AND FOR THIS PURPOSE, AMENDING ORDINANCE NO. 1420, SERIES OF 1993, AND ORDINANCE NO. 1557, SERIES OF 1995

x x x

SECTION 1. – The entrance to the City of Lucena of all buses, mini-buses and out-of-town passenger jeepneys is hereby regulated as follows:

(a) All buses, mini-buses and out-of-town passenger jeepneys shall be prohibited from entering the city and are hereby directed to proceed to the common terminal, for picking-up and/or dropping of their passengers.

(b) All temporary terminals in the City of Lucena are hereby declared inoperable starting from the effectivity of this ordinance.

x x x

SECTION 3. – a) Section 1 of Ordinance No. 1557, Series of 1995, is hereby amended to read as follows:

Buses, mini-buses, and jeepney type mini-buses from other municipalities and/or local government units going to Lucena City are directed to proceed to the Common Terminal located at Diversion Road, Brgy. Ilayang Dupay, to unload and load passengers.

x x x

c) Section 3 of Ordinance No. 1557, Series of 1995, is hereby amended to read as follows:

Passenger buses, mini-buses, and jeepney type mini-buses coming from other municipalities and/or local government units shall utilize the facilities of the Lucena Grand Central Terminal at Diversion Road, Brgy. Ilayang Dupay, this City, and no other terminals shall be situated inside or within the City of Lucena;

d) Section 4 of Ordinance No. 1557, Series of 1995, is hereby amended to read as follows:

Passenger buses, mini-buses, and jeepney type mini-buses coming from other municipalities and/or local government units shall avail of the facilities of the Lucena Grand Central Terminal which is hereby designated as the officially sanctioned common terminal for the City of Lucena;

e) Section 5 of Ordinance No. 1557, Series of 1995, is hereby amended to read as follows:

The Lucena Grand Central Terminal is the permanent common terminal as this is the entity which was given the exclusive franchise by the Sangguniang Panglungsod under Ordinance No. 1631; (Emphasis and underscoring supplied)

These ordinances, by granting an exclusive franchise for twenty five years, renewable for another twenty five years, to one entity for the construction and operation of one common bus and jeepney terminal facility in Lucena City, to be located outside the city proper, were professedly aimed towards alleviating the traffic congestion alleged to have been caused by the existence of various bus and jeepney terminals within the city, as the “Explanatory Note”-Whereas Clause adopting Ordinance No. 1778 states:

WHEREAS, in line with the worsening traffic condition of the City of Lucena, and with the purpose of easing and regulating the flow of the same, it is imperative that the Buses, Mini-Buses and out-of-town jeepneys be prohibited from maintaining terminals within the City, but instead directing to proceed to the Lucena Grand Central Terminal for purposes of picking-up and/or dropping off their passengers;[4]

Respondent, who had maintained a terminal within the city, was one of those affected by the ordinances.

Petitioner, Lucena Grand Central Terminal, Inc., claiming legal interest as the grantee of the exclusive franchise for the operation of the common terminal,[5] was allowed to intervene in the petition before the trial court.

In the hearing conducted on November 25, 1998, all the parties agreed to dispense with the presentation of evidence and to submit the case for resolution solely on the basis of the pleadings filed.[6]

By Order of March 31, 1999,[7] Branch 54 of the Lucena RTC rendered judgment, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered, as follows:

- Declaring City Ordinance No. 1631 as valid, having been issued in the exercise of the police power of the City Government of Lucena insofar as the grant of franchise to the Lucena Grand Central Terminal, Inc., to construct, finance, establish, operate and maintain common bus-jEEPney terminal facility in the City of Lucena;

- But however, declaring the provision of Sec. 4(c) of Ordinance No. 1631 to the effect that the City Government shall not grant any third party any privilege and/or concession to operate a bus, mini-bus and/or jEEPney terminal, as illegal and ultra vires because it contravenes the provisions of Republic Act No. 7160, otherwise known as "The Local Government Code";

- Declaring City Ordinance No. 1778 as null and void, the same being also an ultra vires act of the City Government of Lucena arising from an invalid, oppressive and unreasonable exercise of the police power, more specifically, declaring illegal [sections 1(b), 3(c) and 3(e)];

- Ordering the issuance of a Writ of Prohibition and/or Injunction directing the respondents public officials, the City Mayor and the Sangguniang Panglungsod of Lucena, to cease and desist from implementing Ordinance No. 1778 insofar as said ordinance prohibits or curtails petitioner from maintaining and operating its own bus terminal subject to the conditions provided for in Ordinance No. 1557, Sec. 3, which authorizes the construction of terminal outside the poblacion of Lucena City; and likewise, insofar as said ordinance directs and compels the petitioner to use the Lucena Grand Central Terminal Inc., and furthermore, insofar as it declares that no other terminals shall be situated, constructed, maintained or established inside or within the City of Lucena; and furthermore,

- The Motion to Dismiss filed by the Intervenor, Lucena Grand Central Terminal Inc., dated October 19, 1998, is hereby DENIED for lack of merit.

SO ORDERED. (Emphasis and underscoring supplied)[8]

Petitioner's Motion for Reconsideration[9] of the trial court's order having been denied by Order of August 6, 1999,[10] it elevated it via petition for review under Rule 45 before this Court.[11] This Court, by Resolution of November 24, 1999,[12] referred the petition to the Court of Appeals with which it has concurrent jurisdiction, no special and important reason having been cited for it to take cognizance thereof in the first instance.

By Decision of December 15, 2000,[13] the appellate court dismissed the petition and affirmed the challenged orders of the trial court. Its motion for reconsideration[14] having been denied by the appellate court by Resolution dated June 5, 2001,[15] petitioner once again comes to this Court via petition for review,[16] this time assailing the Decision and Resolution of the Court of Appeals.

Decision on the petition hinges on two issues, to wit: (1) whether the trial court has jurisdiction over the case, it not having furnished the Office of the Solicitor General copy of the orders it issued therein, and (2) whether the City of Lucena properly exercised its police power when it enacted the subject ordinances.

Petitioner argues that since the trial court failed to serve a copy of its assailed orders upon the Office of the Solicitor General, it never acquired jurisdiction over the case, it citing Section 22, Rule 3 of the Rules which provides:

SEC. 22. Notice to the Solicitor General.—In any action involving the validity of any treaty, law, ordinance, executive order, presidential decree, rules or regulations, the court in its discretion, may require the appearance of the Solicitor General who may be heard in person or through representative duly designated by him. (Emphasis and underscoring supplied)

Furthermore, petitioner invokes Sections 3 and 4 of Rule 63 which respectively provide:

SEC. 3. Notice on Solicitor General. – In any action which involves the validity of a statute, executive order or regulation, or any other governmental regulation, the Solicitor General shall be notified by the party assailing the same and shall be entitled to be heard upon such question.

SEC. 4. Local government ordinances. – In any action involving the validity of a local government ordinance, the corresponding prosecutor or attorney of the local government unit involved shall be similarly notified and entitled to be heard. If such ordinance is alleged to be unconstitutional, the Solicitor General shall also be notified and entitled to be heard. (Emphasis and underscoring supplied)

Nowhere, however, is it stated in the above-quoted rules that failure to notify the Solicitor General about the action is a jurisdictional defect.

In fact, Rule 3, Section 22 gives the courts in any action involving the “validity” of any ordinance, *inter alia*, “discretion” to notify the Solicitor General.

Section 4 of Rule 63, which more specifically deals with cases assailing the constitutionality, not just the validity, of a local government ordinance, directs that the Solicitor General “shall also be notified and entitled to be heard.” Who will notify him, Sec. 3 of the same rule provides — it is the party which is assailing the local government’s ordinance.

More importantly, however, this Court finds that no procedural defect, fatal or otherwise, attended the disposition of the case. For respondent actually served a copy of its petition upon the Office of the Solicitor General on October 1, 1998, two days after it was filed. The Solicitor General has issued a Certification to that effect.[17] There was thus compliance with above-quoted rules.

Respecting the issue of whether police power was properly exercised when the subject ordinances were enacted: As with the State, the local government may be considered as having properly exercised its police power only if the following requisites are met: (1) the interests of the public generally, as distinguished from those of a particular class, require the interference of the State, and (2) the means employed are reasonably necessary for the attainment of the object sought to be accomplished and not unduly oppressive upon individuals. Otherwise stated, there must be a concurrence of a lawful subject and lawful method.[18]

That traffic congestion is a public, not merely a private, concern, cannot be gainsaid. In *Calalang v. Williams*[19] which involved a statute authorizing the Director of Public Works to promulgate rules and regulations to regulate and control traffic on national roads, this Court held:

In enacting said law, therefore, the National Assembly was prompted by considerations of public convenience and welfare. It was inspired by a desire to relieve congestion of traffic, which is, to say the least, a menace to public safety. Public welfare, then, lies at the bottom of the enactment of said law, and the state in order to promote the general welfare may interfere with personal liberty, with property, and with business and occupations.[20] (Emphasis supplied)

The questioned ordinances having been enacted with the objective of relieving traffic congestion in the City of Lucena, they involve public interest warranting the interference of the State. The first requisite for the proper exercise of police power is thus present.

Respondent's suggestion to have this Court look behind the explicit objective of the ordinances which, to it, was actually to benefit the private interest of petitioner by coercing all bus operators to patronize its terminal does not lie.[21] *Lim v. Pacquing*[22] instructs:

. . . [T]his Court cannot look into allegations that PD No. 771 was enacted to benefit a select group which was later given authority to operate the jai-alai under PD No. 810. The examination of legislative motivation is generally prohibited. (*Palmer v. Thompson*, 403 U.S. 217, 29 L. Ed. 2d 438 [1971] per Black, J.) There is, in the first place, absolute lack of evidence to support ADC's allegation of improper motivation in the issuance of PD No. 771. In the second place, as already averred, this Court cannot go behind the expressed and proclaimed purposes of PD No. 771, which are reasonable and even laudable. (Underscoring supplied)[23]

This leaves for determination the issue of whether the means employed by the Lucena Sangguniang Panlungsod to attain its professed objective were reasonably necessary and not unduly oppressive upon individuals.

With the aim of localizing the source of traffic congestion in the city to a single location,[24] the subject ordinances prohibit the operation of all bus and jeepney terminals within Lucena, including those already existing, and allow the operation of only one common terminal located outside the city proper, the franchise for which was granted to petitioner. The common carriers plying routes to and from Lucena City are thus compelled to close down their existing terminals and use the facilities of petitioner.

In *De la Cruz v. Paras*,[25] this Court declared unconstitutional an ordinance characterized by overbreadth. In that case, the Municipality of Bocaue, Bulacan prohibited the operation of all night clubs, cabarets and dance halls within its jurisdiction for the protection of public morals. Held the Court:

It cannot be said that such a sweeping exercise of a lawmaking power by Bocaue could qualify under the term reasonable. The objective of fostering public morals, a worthy and desirable end can be attained by a measure that does not encompass too wide a field. Certainly the ordinance on its face is characterized by overbreadth. The purpose sought to be achieved could have been attained by reasonable restrictions rather than by an absolute prohibition. The admonition in *Salaveria* should be heeded: "The Judiciary should not lightly set aside legislative action when there is not a clear invasion of personal or property rights under the guise of police regulation." It is clear that in the guise of a police regulation, there was in this instance a clear invasion of personal or property rights, personal in the case of those individuals desirous of patronizing those night clubs and property in terms of the investments made and salaries to be earned by those therein employed. (Underscoring supplied)[26]

In *Lupangco v. Court of Appeals*,[27] this Court, in declaring unconstitutional the resolution subject thereof, advanced a similar consideration. That case involved a resolution issued by the Professional Regulation Commission which prohibited examinees from attending review classes and receiving handout materials, tips, and the like three days before the date of examination in order to preserve the integrity and purity of the licensure examinations in accountancy. Besides being unreasonable on its face and violative of academic freedom, the measure was found to be more sweeping than what was necessary, viz:

Needless to say, the enforcement of Resolution No. 105 is not a guarantee that the alleged leakages in the licensure examinations will be eradicated or at least minimized. Making the examinees suffer by depriving them of legitimate means of review or preparation on those last three precious days when they should be refreshing themselves with all that they have learned in the review classes and preparing their mental and psychological make-up for the examination day itself — would be like uprooting the tree to get rid of a rotten branch. What is needed to be done by the respondent is to find out the source of such leakages and stop it right there. If corrupt officials or personnel should be terminated from their loss, then so be it. Fixers or swindlers should be flushed out. Strict guidelines to be observed by examiners should be set up and if violations are committed, then licenses should be suspended or revoked. x x x (Emphasis and underscoring supplied)[28]

As in *De la Cruz*[29] and *Lupangco*,[30] the ordinances assailed herein are characterized by overbreadth. They go beyond what is reasonably necessary to solve the traffic problem. Additionally, since the compulsory use of the terminal operated by petitioner would subject the users thereof to fees, rentals and charges, such measure is unduly oppressive, as correctly found by the appellate court. [31] What should have been done was to determine exactly where the problem lies and then to stop it right there.

The true role of Constitutional Law is to effect an equilibrium between authority and liberty so that rights are exercised within the framework of the law and the laws are enacted with due deference to rights.
(Underscoring supplied)[32]

A due deference to the rights of the individual thus requires a more careful formulation of solutions to societal problems.

From the memorandum[33] filed before this Court by petitioner, it is gathered that the Sangguniang Panlungsod had identified the cause of traffic congestion to be the indiscriminate loading and unloading of passengers by buses on the streets of the city proper, hence, the conclusion that the terminals contributed to the proliferation of buses obstructing traffic on the city streets.

Bus terminals per se do not, however, impede or help impede the flow of traffic. How the outright proscription against the existence of all terminals, apart from that franchised to petitioner, can be considered as reasonably necessary to solve the traffic problem, this Court has not been enlightened. If terminals lack adequate space such that bus drivers are compelled to load and unload passengers on the streets instead of inside the terminals, then reasonable specifications for the size of terminals could be instituted, with permits to operate the same denied those which are unable to meet the specifications.

In the subject ordinances, however, the scope of the proscription against the maintenance of terminals is so broad that even entities which might be able to provide facilities better than the franchised terminal are barred from operating at all.

Petitioner argues, however, that other solutions for the traffic problem have already been tried but proven ineffective. But the grant of an exclusive franchise to petitioner has not been shown to be the only solution to the problem.

While the Sangguniang Panlungsod, via Ordinance No. 1557,[34] previously directed bus owners and operators to put up their terminals “outside the poblacion of Lucena City,” petitioner informs that said ordinance only resulted in the relocation of terminals to other well-populated barangays, thereby giving rise to traffic congestion in those areas.[35] Assuming that information to be true, the Sangguniang Panlungsod was not without remedy. It could have defined, among other considerations, in a more precise manner, the area of relocation to avoid such consequences.

As for petitioner’s argument that the challenged ordinances were enacted pursuant to the power of the Sangguniang Panlungsod to “[r]egulate traffic on all streets and bridges; prohibit encroachments or obstacles thereon and, when necessary in the interest of public welfare, authorize the removal of encroachments and illegal constructions in public places”:[36] Absent any showing, nay allegation, that the terminals are encroaching upon public roads, they are not obstacles. The buses which indiscriminately load and unload passengers on the city streets are. The power then of the Sangguniang Panlungsod to prohibit encroachments and obstacles does not extend to terminals.

Neither are terminals public nuisances as petitioner argues. For their operation is a legitimate business which, by itself, cannot be said to be injurious to the rights of property, health, or comfort of the community.

But even assuming that terminals are nuisances due to their alleged indirect effects upon the flow of traffic, at most they are nuisance per accidens, not per se.

Unless a thing is nuisance per se, however, it may not be abated via an ordinance, without judicial proceedings, as was done in the case at bar.

In *Estate of Gregoria Francisco v. Court of Appeals*,^[37] this Court held:

Respondents can not seek cover under the general welfare clause authorizing the abatement of nuisances without judicial proceedings. That tenet applies to a nuisance per se, or one which affects the immediate safety of persons and property and may be summarily abated under the undefined law of necessity (*Monteverde v. Generoso*, 52 Phil. 123 [1982]). The storage of copra in the quonset building is a legitimate business. By its nature, it can not be said to be injurious to rights of property, of health or of comfort of the community. If it be a nuisance per accidens it may be so proven in a hearing conducted for that purpose. It is not per se a nuisance warranting its summary abatement without judicial intervention. (Underscoring supplied)^[38]

In *Pampanga Bus Co., Inc. v. Municipality of Tarlac*^[39] where the appellant-municipality similarly argued that the terminal involved therein is a nuisance that may be abated by the Municipal Council via an ordinance, this Court held: “Suffice it to say that in the abatement of nuisances the provisions of the Civil Code (Articles 694-707) must be observed and followed. This appellant failed to do.”

As for petitioner’s claim that the challenged ordinances have actually been proven effective in easing traffic congestion: Whether an ordinance is effective is an issue different from whether it is reasonably necessary. It is its reasonableness, not its effectiveness, which bears upon its constitutionality. If the constitutionality of a law were measured by its effectiveness, then even tyrannical laws may be justified whenever they happen to be effective.

The Court is not unaware of the resolutions of various barangays in Lucena City supporting the establishment of a common terminal, and similar expressions of support from the private sector, copies of which were submitted to this Court by petitioner. The weight of popular opinion, however, must be balanced with that of an individual’s rights.

There is no question that not even the strongest moral conviction or the most urgent public need, subject only to a few notable exceptions, will excuse the bypassing of an individual’s rights. It is no exaggeration to say that a person invoking a right guaranteed under Article III of the Constitution is a majority of one even as against the rest of the nation who would deny him that right.^[40]

WHEREFORE, the petition is hereby DENIED.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Records at 1-10.

[2] Rollo at 118-120.

[3] Id. at 226-229.

[4] Id. at 227.

[5] Records at 55-59.

[6] Id. at 339.

[7] Id. at 328-360.

[8] Id. at 358-360.

[9] Id. at 384-399.

[10] Id. at 467-470.

[11] CA Rollo at 18-59.

[12] Id. at 327.

[13] Id. at 548-557.

[14] Id. at 560-572.

[15] Id. at 622-623.

[16] Rollo at 9-407 inclusive of Annexes “A” - “Y”.

[17] CA Rollo at 498.

[18] DECS v. San Diego, 180 SCRA 533, 537 (1989).

[19] 70 Phil. 726 (1940).

[20] Id. at 733.

[21] Rollo at 539.

[22] 240 SCRA 649 (1995).

[23] Id. at 677-678.

[24] Rollo at 505.

[25] 123 SCRA 569 (1983).

[26] Id. at 578.

[27] 160 SCRA 848 (1988).

[28] Id. at 860.

[29] Supra.

[30] Supra.

[31] Rollo at 59.

[32] CRUZ, I., CONSTITUTIONAL LAW 1 (1995).

[33] Rollo at 496, 509-510.

[34] Id. at 109.

[35] Memorandum of Petitioner, id. at 510.

[36] Section 458(5)(vi), LOCAL GOVERNMENT CODE of 1991.

[37] 199 SCRA 595 (1991).

[38] Id. at 601.

[39] 3 SCRA 816 (1961).

[40] Association of Small Landowners in the Philippines v. Sec. of Agrarian Reform, 175 SCRA 343, 375-376. (1989).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.