

LEONARDO TAN, ROBERT UY AND LAMBERTO TE, PETITIONERS, VS. SOCORRO Y. PEREÑA, RESPONDENT.

G.R. NO. 149743. February 18, 2005

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149743/>

TINGA, J.:

The resolution of the present petition effectively settles the question of how many cockpits may be allowed to operate in a city or municipality.

There are two competing values of high order that come to fore in this case—the traditional power of the national government to enact police power measures, on one hand, and the vague principle of local autonomy now enshrined in the Constitution on the other. The facts are simple, but may be best appreciated taking into account the legal milieu which frames them.

In 1974, Presidential Decree (P.D.) No. 449, otherwise known as the Cockfighting Law of 1974, was enacted. Section 5(b) of the Decree provided for limits on the number of cockpits that may be established in cities and municipalities in the following manner:

Section 5. Cockpits and Cockfighting in General. –

(b) Establishment of Cockpits. – Only one cockpit shall be allowed in each city or municipality, except that in cities or municipalities with a population of over one hundred thousand, two cockpits may be established, maintained and operated.

With the enactment of the Local Government Code of 1991,[1] the municipal sangguniang bayan were empowered, “[a]ny law to the contrary notwithstanding,” to “authorize and license the establishment, operation and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks.”[2]

In 1993, the Sangguniang Bayan of the municipality of Daanbantayan,[3] Cebu Province, enacted Municipal Ordinance No. 6 (Ordinance No. 6), Series of 1993, which served as the Revised Omnibus Ordinance prescribing and promulgating the rules and regulations governing cockpit operations in Daanbantayan.[4] Section 5 thereof, relative to the number of cockpits allowed in the municipality, stated:

Section 5. There shall be allowed to operate in the Municipality of Daanbantayan, Province of Cebu, not more than its equal number of cockpits based upon the population provided for in PD 449, provided however, that this specific section can be amended for purposes of establishing additional cockpits, if the Municipal population so warrants.[5]

Shortly thereafter, the Sangguniang Bayan passed an amendatory ordinance, Municipal Ordinance No. 7 (Ordinance No. 7), Series of 1993, which amended the aforequoted Section 5 to now read as follows:

Section 5. Establishment of Cockpit. There shall be allowed to operate in the Municipality of Daanbantayan, Province of Cebu, not more than three (3) cockpits.[6]

On 8 November 1995, petitioner Leonardo Tan (Tan) applied with the Municipal Gamefowl Commission for the issuance of a permit/license to establish and operate a cockpit in Sitio Combado, Bagay, in Daanbantayan. At the time of his application, there was already another cockpit in operation in Daanbantayan, operated by respondent Socorro Y. Pereña (Pereña), who was the duly franchised and licensed cockpit operator in the municipality since the 1970s. Pereña's franchise, per records, was valid until 2002.[7]

The Municipal Gamefowl Commission favorably recommended to the mayor of Daanbantayan, petitioner Lamberto Te (Te), that a permit be issued to Tan. On 20 January 1996, Te issued a mayor's permit allowing Tan "to establish/operate/conduct" the business of a cockpit in Combado, Bagay, Daanbantayan, Cebu for the period from 20 January 1996 to 31 December 1996.[8]

This act of the mayor served as cause for Pereña to file a Complaint for damages with a prayer for injunction against Tan, Te, and Roberto Uy, the latter allegedly an agent of Tan.[9] Pereña alleged that there was no lawful basis for the establishment of a second cockpit. She claimed that Tan conducted his cockpit fights not in Combado, but in Malingin, at a site less than five kilometers away from her own cockpit. She insisted that the unlawful operation of Tan's cockpit has caused injury to her own legitimate business, and demanded damages of at least Ten Thousand Pesos (P10,000.00) per month as actual damages, One Hundred Fifty Thousand Pesos (P150,000.00) as moral damages, and Fifty Thousand Pesos (P50,000.00) as exemplary damages. Pereña also prayed that the permit issued by Te in favor of Tan be declared as null and void, and that a permanent writ of injunction be issued against Te and Tan preventing Tan from conducting cockfights within the municipality and Te from issuing any authority for Tan to pursue such activity.[10]

The case was heard by the Regional Trial Court (RTC),[11] Branch 61 of Bogu, Cebu, which initially granted a writ of preliminary injunction.[12] During trial, herein petitioners asserted that under the Local Government Code of 1991, the sangguniang bayan of each municipality now had the power and authority to grant franchises and enact ordinances authorizing the establishment, licensing, operation and maintenance of cockpits.[13] By virtue of such authority, the Sangguniang Bayan of Daanbantayan promulgated Ordinance Nos. 6 and 7. On the other hand, Pereña claimed that the amendment authorizing the operation of not more than three (3) cockpits in Daanbantayan violated Section 5(b) of the Cockfighting Law of 1974, which allowed for only one cockpit in a municipality with a population as Daanbantayan.[14]

In a Decision dated 10 March 1997, the RTC dismissed the complaint. The court observed that Section 5 of Ordinance No. 6, prior to its amendment, was by specific provision, an implementation of the Cockfighting Law.[15] Yet according to the RTC, questions could be raised as to the efficacy of the subsequent amendment under Ordinance No. 7, since under the old Section 5, an amendment allowing additional cockpits could be had only "if the municipal population so warrants."[16] While the RTC seemed to doubt whether this condition had actually been fulfilled, it nonetheless declared that since the case was only for damages, "the [RTC] cannot grant more relief than that prayed for." [17] It ruled that there was no evidence, testimonial or documentary, to show that plaintiff had actually suffered damages. Neither was there evidence that Te, by issuing the permit to Tan, had acted in bad faith, since such issuance was pursuant to municipal ordinances that nonetheless remained in force.[18] Finally, the RTC noted that the assailed permit had expired on 31 December 1996, and there was no showing that it had been renewed.[19]

Pereña filed a Motion for Reconsideration which was denied in an Order dated 24 February 1998. In this Order, the RTC categorically stated that Ordinance Nos. 6 and 7 were "valid and legal for all intents and purpose[s]."[20] The RTC also noted that the Sangguniang Bayan had also promulgated Resolution No. 78-96, conferring on Tan a franchise to operate a cockpit for a period of ten (10) years from February 1996 to 2006.[21] This Resolution was likewise affirmed as valid by the RTC. The RTC noted that while the ordinances seemed to

be in conflict with the Cockfighting Law, any doubt in interpretation should be resolved in favor of the grant of more power to the local government unit, following the principles of devolution under the Local Government Code.[22]

The Decision and Order of the RTC were assailed by Pereña on an appeal with the Court of Appeals which on 21 May 2001, rendered the Decision now assailed.[23] The perspective from which the Court of Appeals viewed the issue was markedly different from that adopted by the RTC. Its analysis of the Local Government Code, particularly Section 447(a)(3)(V), was that the provision vesting unto the sangguniang bayan the power to authorize and license the establishment of cockpits did not do away with the Cockfighting Law, as these two laws are not necessarily inconsistent with each other. What the provision of the Local Government Code did, according to the Court of Appeals, was to transfer to the sangguniang bayan powers that were previously conferred on the Municipal Gamefowl Commission.[24]

Given these premises, the appellate court declared as follows:

Ordinance No. 7 should [be] held invalid for allowing, in unconditional terms, the operation of “not more than three cockpits in Daan Bantayan” (sic), clearly dispensing with the standard set forth in PD 449. However, this issue appears to have been mooted by the expiration of the Mayor’s Permit granted to the defendant which has not been renewed.[25]

As to the question of damages, the Court of Appeals agreed with the findings of the RTC that Pereña was not entitled to damages. Thus, it affirmed the previous ruling denying the claim for damages. However, the Court of Appeals modified the RTC’s Decision in that it now ordered that Tan be enjoined from operating a cockpit and conducting any cockfights within Daanbantayan.[26]

Thus, the present Petition for Review on Certiorari.

Petitioners present two legal questions for determination: whether the Local Government Code has rendered inoperative the Cockfighting Law; and whether the validity of a municipal ordinance may be determined in an action for damages which does not even contain a prayer to declare the ordinance invalid.[27] As the denial of the prayer for damages by the lower court is not put in issue before this Court, it shall not be passed upon on review.

The first question raised is particularly interesting, and any definitive resolution on that point would have obvious ramifications not only to Daanbantayan, but all other municipalities and cities. However, we must first determine the proper scope of judicial inquiry that we could engage in, given the nature of the initiatory complaint and the rulings rendered thereupon, the exact point raised in the second question.

Petitioners claim that the Court of Appeals, in declaring Ordinance No. 7 as invalid, embarked on an unwarranted collateral attack on the validity of a municipal ordinance.[28] Pereña’s complaint, which was for damages with preliminary injunction, did not pray for the nullity of Ordinance No. 7. The Municipality of Daanbantayan as a local government unit was not made a party to the case, nor did any legal counsel on its behalf enter any appearance. Neither was the Office of the Solicitor General given any notice of the case.[29]

These concerns are not trivial.[30] Yet, we must point out that the Court of Appeals did not expressly nullify Ordinance No. 7, or any ordinance for that matter. What the appellate court did was to say that Ordinance No. 7 “should therefore be held invalid” for being in violation of the Cockfighting Law.[31] In the next breath though, the Court of Appeals backtracked, saying that “this issue appears to have been mooted by the expiration of the Mayor’s Permit granted” to Tan.[32]

But our curiosity is aroused by the dispositive portion of the assailed Decision, wherein the Court of Appeals enjoined Tan “from operating a cockpit and conducting any cockfights within” Daanbantayan.[33] Absent the

invalidity of Ordinance No. 7, there would be no basis for this injunction. After all, any future operation of a cockpit by Tan in Daanbantayan, assuming all other requisites are complied with, would be validly authorized should Ordinance No. 7 subsist.

So it seems, for all intents and purposes, that the Court of Appeals did deem Ordinance No. 7 a nullity. Through such resort, did the appellate court in effect allow a collateral attack on the validity of an ordinance through an action for damages, as the petitioners argue?

The initiatory Complaint filed by Pereña deserves close scrutiny. Immediately, it can be seen that it is not only an action for damages, but also one for injunction. An action for injunction will require judicial determination whether there exists a right in esse which is to be protected, and if there is an act constituting a violation of such right against which injunction is sought. At the same time, the mere fact of injury alone does not give rise to a right to recover damages. To warrant the recovery of damages, there must be both a right of action for a legal wrong inflicted by the defendant, and damage resulting to the plaintiff therefrom. In other words, in order that the law will give redress for an act causing damage, there must be *damnum et injuria*-that act must be not only hurtful, but wrongful.[34]

Indubitably, the determination of whether injunction or damages avail in this case requires the ascertainment of whether a second cockpit may be legally allowed in Daanbantayan. If this is permissible, Pereña would not be entitled either to injunctive relief or damages.

Moreover, an examination of the specific allegations in the Complaint reveals that Pereña therein puts into question the legal basis for allowing Tan to operate another cockpit in Daanbantayan. She asserted that “there is no lawful basis for the establishment of a second cockpit considering the small population of [Daanbantayan],”[35] a claim which alludes to Section 5(b) of the Cockfighting Law which prohibits the establishment of a second cockpit in municipalities of less than ten thousand (10,000) in population. Pereña likewise assails the validity of the permit issued to Tan and prays for its annulment, and also seeks that Te be enjoined from issuing any special permit not only to Tan, but also to “any other person outside of a duly licensed cockpit in Daanbantayan, Cebu.”[36]

It would have been preferable had Pereña expressly sought the annulment of Ordinance No. 7. Yet it is apparent from her Complaint that she sufficiently alleges that there is no legal basis for the establishment of a second cockpit. More importantly, the petitioners themselves raised the valid effect of Ordinance No. 7 at the heart of their defense against the complaint, as adverted to in their Answer.[37] The averment in the Answer that Ordinance No. 7 is valid can be considered as an affirmative defense, as it is the allegation of a new matter which, while hypothetically admitting the material allegations in the complaint, would nevertheless bar recovery.[38] Clearly then, the validity of Ordinance No. 7 became a justiciable matter for the RTC, and indeed Pereña squarely raised the argument during trial that said ordinance violated the Cockfighting Law.[39]

Moreover, the assailed rulings of the RTC, its Decision and subsequent Order denying Pereña’s Motion for Reconsideration, both discuss the validity of Ordinance No. 7. In the Decision, the RTC evaded making a categorical ruling on the ordinance’s validity because the case was “only for damages, [thus the RTC could] not grant more relief than that prayed for.” This reasoning is unjustified, considering that Pereña also prayed for an injunction, as well as for the annulment of Tan’s permit. The resolution of these two questions could very well hinge on the validity of Ordinance No. 7.

Still, in the Order denying Pereña’s Motion for Reconsideration, the RTC felt less inhibited and promptly declared as valid not only Ordinance No. 7, but also Resolution No. 78-96 of the Sangguniang Bayan dated 23 February 1996, which conferred on Tan a franchise to operate a cockpit from 1996 to 2006.[40] In the Order, the

RTC ruled that while Ordinance No. 7 was in apparent conflict with the Cockfighting Law, the ordinance was justified under Section 447(a)(3)(v) of the Local Government Code.

This express affirmation of the validity of Ordinance No. 7 by the RTC was the first assigned error in Pereña's appeal to the Court of Appeals.[41] In their Appellee's Brief before the appellate court, the petitioners likewise argued that Ordinance No. 7 was valid and that the Cockfighting Law was repealed by the Local Government Code.[42] On the basis of these arguments, the Court of Appeals rendered its assailed Decision, including its ruling that the Section 5(b) of the Cockfighting Law remains in effect notwithstanding the enactment of the Local Government Code.

Indubitably, the question on the validity of Ordinance No. 7 in view of the continuing efficacy of Section 5(b) of the Cockfighting Law is one that has been fully litigated in the courts below. We are comfortable with reviewing that question in the case at bar and make dispositions proceeding from that key legal question. This is militated by the realization that in order to resolve the question whether injunction should be imposed against the petitioners, there must be first a determination whether Tan may be allowed to operate a second cockpit in Daanbantayan. Thus, the conflict between Section 5(b) of the Cockfighting Law and Ordinance No. 7 now ripens for adjudication.

In arguing that Section 5(b) of the Cockfighting Law has been repealed, petitioners cite the following provisions of Section 447(a)(3)(v) of the Local Government Code:

Section 447. Powers, Duties, Functions and Compensation. (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

....

(3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

....

(v) Any law to the contrary notwithstanding, authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks; Provided, that existing rights should not be prejudiced;

For the petitioners, Section 447(a)(3)(v) sufficiently repeals Section 5(b) of the Cockfighting Law, vesting as it does on LGUs the power and authority to issue franchises and regulate the operation and establishment of cockpits in their respective municipalities, any law to the contrary notwithstanding.

However, while the Local Government Code expressly repealed several laws, the Cockfighting Law was not among them. Section 534(f) of the Local Government Code declares that all general and special laws or decrees inconsistent with the Code are hereby repealed or modified accordingly, but such clause is not an express repealing clause because it fails to identify or designate the acts that are intended to be repealed.[43] It is a cardinal rule in statutory construction that implied repeals are disfavored and will not be so declared unless the intent of the legislators is manifest.[44] As laws are presumed to be passed with deliberation and with knowledge of all existing ones on the subject, it is logical to conclude that in passing a statute it is not intended to interfere with or abrogate a former law relating to the same subject matter, unless the repugnancy between the two is not only irreconcilable but also clear and convincing as a result of the language used, or unless the latter Act fully

embraces the subject matter of the earlier.[45]

Is the one-cockpit-per-municipality rule under the Cockfighting Law clearly and convincingly irreconcilable with Section 447(a)(3)(v) of the Local Government Code? The clear import of Section 447(a)(3)(v) is that it is the *sangguniang bayan* which is empowered to authorize and license the establishment, operation and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks, notwithstanding any law to the contrary. The necessity of the qualifying phrase “any law to the contrary notwithstanding” can be discerned by examining the history of laws pertaining to the authorization of cockpit operation in this country.

Cockfighting, or *sabong* in the local parlance, has a long and storied tradition in our culture and was prevalent even during the Spanish occupation. When the newly-arrived Americans proceeded to organize a governmental structure in the Philippines, they recognized cockfighting as an activity that needed to be regulated, and it was deemed that it was the local municipal council that was best suited to oversee such regulation. Hence, under Section 40 of Act No. 82, the general act for the organization of municipal governments promulgated in 1901, the municipal council was empowered “to license, tax or close cockpits”. This power of the municipal council to authorize or license cockpits was repeatedly recognized even after the establishment of the present Republic in 1946.[46] Such authority granted unto the municipal councils to license the operation of cockpits was generally unqualified by restrictions.[47] The Revised Administrative Code did impose restrictions on what days cockfights could be held.[48]

However, in the 1970s, the desire for stricter licensing requirements of cockpits started to see legislative fruit. The Cockfighting Law of 1974 enacted several of these restrictions. Apart from the one-cockpit-per-municipality rule, other restrictions were imposed, such as the limitation of ownership of cockpits to Filipino citizens.[49] More importantly, under Section 6 of the Cockfighting Law, it was the city or municipal mayor who was authorized to issue licenses for the operation and maintenance of cockpits, subject to the approval of the Chief of Constabulary or his authorized representatives.[50] Thus, the sole discretion to authorize the operation of cockpits was removed from the local government unit since the approval of the Chief of Constabulary was now required.

P.D. No. 1802 reestablished the Philippine Gamefowl Commission[51] and imposed further structure in the regulation of cockfighting. Under Section 4 thereof, city and municipal mayors with the concurrence of their respective *sangguniang panglunsod* or *sangguniang bayan*, were given the authority to license and regulate cockfighting, under the supervision of the City Mayor or the Provincial Governor. However, Section 4 of P.D. No. 1802 was subsequently amended, removing the supervision exercised by the mayor or governor and substituting in their stead the Philippine Gamefowl Commission. The amended provision ordained:

Sec. 4. City and Municipal Mayors with the concurrence of their respective “Sanggunians” shall have the authority to license and regulate regular cockfighting pursuant to the rules and regulations promulgated by the Commission and subject to its review and supervision.

The Court, on a few occasions prior to the enactment of the Local Government Code in 1991, had opportunity to expound on Section 4 as amended. A discussion of these cases will provide a better understanding of the qualifier “any law to the contrary notwithstanding” provided in Section 447(a)(3)(v).

In *Philippine Gamefowl Commission v. Intermediate Appellate Court*,[52] the Court, through Justice Cruz, asserted that the conferment of the power to license and regulate municipal cockpits in municipal authorities is in line with the policy of local autonomy embodied in the Constitution.[53] The Court affirmed the annulment of a resolution of the Philippine Gamefowl Commission which ordered the revocation of a permit issued by a municipal mayor for the operation of a cockpit and the issuance of a new permit to a different applicant. According to the Court, the Philippine Gamefowl Commission did not possess the power to issue cockpit licenses,

as this was vested by Section 4 of P.D. No. 1802, as amended, to the municipal mayor with the concurrence of the sanggunian. It emphasized that the Philippine Gamefowl Commission only had review and supervision powers, as distinguished from control, over ordinary cockpits.[54] The Court also noted that the regulation of cockpits was vested in municipal officials, subject only to the guidelines laid down by the Philippine Gamefowl Commission.[55] The Court conceded that “[if] at all, the power to review includes the power to disapprove; but it does not carry the authority to substitute one’s own preferences for that chosen by the subordinate in the exercise of its sound discretion.”

The twin pronouncements that it is the municipal authorities who are empowered to issue cockpit licenses and that the powers of the Philippine Gamefowl Commission were limited to review and supervision were affirmed in *Deang v. Intermediate Appellate Court*,[56] *Municipality of Malolos v. Libangang Malolos Inc.*[57] and *Adlawan v. Intermediate Appellate Court*. [58] But notably in *Cootauco v. Court of Appeals*,[59] the Court especially noted that Philippine Gamefowl Commission did indicate that the Commission’s “power of review includes the power to disapprove.”[60] Interestingly, Justice Cruz, the writer of Philippine Gamefowl Commission, qualified his concurrence in *Cootauco* “subject to the reservations made in [Philippine Gamefowl Commission] regarding the review powers of the PGC over cockpit licenses issued by city and municipal mayors.”[61]

These cases reiterate what has been the traditional prerogative of municipal officials to control the issuances of licenses for the operation of cockpits. Nevertheless, the newly-introduced role of the Philippine Gamefowl Commission vis-à-vis the operation of cockpits had caused some degree of controversy, as shown by the cases above cited.

Then, the Local Government Code of 1991 was enacted. There is no more forceful authority on this landmark legislation than Senator Aquilino Pimentel, Jr., its principal author. In his annotations to the Local Government Code, he makes the following remarks relating to Section 447(a)(3)(v):

12. Licensing power. In connection with the power to grant licenses lodged with it, the Sangguniang Bayan may now regulate not only businesses but also occupations, professions or callings that do not require government examinations within its jurisdiction. It may also authorize and license the establishment, operation and maintenance of cockpits, regulate cockfighting, and the commercial breeding of gamecocks. Existing rights however, may not be prejudiced. The power to license cockpits and permits for cockfighting has been removed completely from the Gamefowl Commission.

Thus, that part of the ruling of the Supreme Court in the case of *Municipality of Malolos v. Libangang Malolos, Inc. et al.*, which held that “...the regulation of cockpits is vested in the municipal councils guidelines laid down by the Philippine Gamefowl Commission” is no longer controlling. Under [Section 447(a)(3)(v)], the power of the Sanggunian concerned is no longer subject to the supervision of the Gamefowl Commission.[62]

The above observations may be faulted somewhat in the sense that they fail to acknowledge the Court’s consistent position that the licensing power over cockpits belongs exclusively to the municipal authorities and not the Philippine Gamefowl Commission. Yet these views of Senator Pimentel evince the apparent confusion regarding the role of the Philippine Gamefowl Commission as indicated in the cases previously cited, and accordingly bring the phrase Section 447(a)(3)(v) used in “any law to the contrary notwithstanding” into its proper light. The qualifier serves notice, in case it was still doubtful, that it is the sanggunian bayan concerned alone which has the power to authorize and license the establishment, operation and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks within its territorial jurisdiction.

Given the historical perspective, it becomes evident why the legislature found the need to use the phrase “any law to the contrary notwithstanding” in Section 447(a)(3)(v). However, does the phrase similarly allow the

Sangguniang Bayan to authorize more cockpits than allowed under Section 5(d) of the Cockfighting Law? Certainly, applying the test of implied repeal, these two provisions can stand together. While the sanggunian retains the power to authorize and license the establishment, operation, and maintenance of cockpits, its discretion is limited in that it cannot authorize more than one cockpit per city or municipality, unless such cities or municipalities have a population of over one hundred thousand, in which case two cockpits may be established. Considering that Section 447(a)(3)(v) speaks essentially of the identity of the wielder of the power of control and supervision over cockpit operation, it is not inconsistent with previous enactments that impose restrictions on how such power may be exercised. In short, there is no dichotomy between affirming the power and subjecting it to limitations at the same time.

Perhaps more essential than the fact that the two controverted provisions are not inconsistent when put together, the Court recognizes that Section 5(d) of the Cockfighting Law arises from a valid exercise of police power by the national government. Of course, local governments are similarly empowered under Section 16 of the Local Government Code. The national government ought to be attuned to the sensitivities of devolution and strive to be sparing in usurping the prerogatives of local governments to regulate the general welfare of their constituents.

We do not doubt, however, the ability of the national government to implement police power measures that affect the subjects of municipal government, especially if the subject of regulation is a condition of universal character irrespective of territorial jurisdictions. Cockfighting is one such condition. It is a traditionally regulated activity, due to the attendant gambling involved^[63] or maybe even the fact that it essentially consists of two birds killing each other for public amusement. Laws have been enacted restricting the days when cockfights could be held,^[64] and legislation has even been emphatic that cockfights could not be held on holidays celebrating national honor such as Independence Day^[65] and Rizal Day.^[66]

The Whereas clauses of the Cockfighting Law emphasize that cockfighting “should neither be exploited as an object of commercialism or business enterprise, nor made a tool of uncontrolled gambling, but more as a vehicle for the preservation and perpetuation of native Filipino heritage and thereby enhance our national identity.”^[67] The obvious thrust of our laws designating when cockfights could be held is to limit cockfighting and imposing the one-cockpit-per-municipality rule is in line with that aim. Cockfighting is a valid matter of police power regulation, as it is a form of gambling essentially antagonistic to the aims of enhancing national productivity and self-reliance.^[68] Limitation on the number of cockpits in a given municipality is a reasonably necessary means for the accomplishment of the purpose of controlling cockfighting, for clearly more cockpits equals more cockfights.

If we construe Section 447(a)(3)(v) as vesting an unlimited discretion to the sanggunian to control all aspects of cockpits and cockfighting in their respective jurisdiction, this could lead to the prospect of daily cockfights in municipalities, a certain distraction in the daily routine of life in a municipality. This certainly goes against the grain of the legislation earlier discussed. If the arguments of the petitioners were adopted, the national government would be effectively barred from imposing any future regulatory enactments pertaining to cockpits and cockfighting unless it were to repeal Section 447(a)(3)(v).

A municipal ordinance must not contravene the Constitution or any statute, otherwise it is void.^[69] Ordinance No. 7 unmistakably contravenes the Cockfighting Law in allowing three cockpits in Daanbantayan. Thus, no rights can be asserted by the petitioners arising from the Ordinance. We find the grant of injunction as ordered by the appellate court to be well-taken.

WHEREFORE, the petition is DENIED. Costs against petitioners.

SO ORDERED.

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

[1] Republic Act No. 7160.

[2] See Section 447(3)(V), Local Government Code of 1991.

[3] Erroneously referred to in the assailed Decision of the Court of Appeals as “Daan Bantayan.”

[4] Records, p. 43.

[5] Id. at 44.

[6] Rollo, p. 26.

[7] Id. at 34.

[8] Id. at 35.

[9] Id. at 35.

[10] Id. at 36.

[11] Presided by Judge I. Mantilla. The case was docketed as Civil Case No. CEB-18516 BOGO-00071.

[12] Said writ was subsequently lifted upon the filing of a motion for reconsideration and counter bond. Rollo, p. 27.

[13] Records, p. 40.

[14] There seems to be no dispute that the population of Daanbantayan is less than one hundred thousand strong. According to the National Statistics Office, Region VII, the population of the municipality in 1995 was Sixty-Four Thousand Five Hundred (64,500). Rollo, p. 30.

[15] Records, p. 44.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] Id. at 47

[20] Records, p. 51.

[21] Ibid.

[22] Ibid.

[23] The case, docketed as CA-G.R. CV. No. 67925, was raffled to the Second Division of the Court of Appeals. The Decision was penned by Justice P. Aliño-Hormachuelos, and concurred in by Justice F. Martin, Jr., Chairman of the Second Division, and Justice M. Gozo-Dadole.

[24] Rollo, p. 29.

[25] Id. at 30.

[26] Id. at 31.

[27] Rollo, pp. 9-10.

[28] Id. at 18.

[29] Ibid.

[30] Although we do point out that under Section 22, Rule 3 of the Rules of Court, the appearance of the Solicitor General in any action involving the validity of any ordinance is only discretionary, and not mandatory on the part of the court.

[31] Supra note 25.

[32] Ibid.

[33] Rollo, p. 31.

[34] Custodio v. Court of Appeals, 323 Phil. 575 (1996).

[35] Rollo, p. 35.

[36] Id. at 37.

[37] Id. at 42.

[38] See Section 5(b), Rule 6, Rules of Court.

[39] See Rollo, p. 45.

[40] Records, p. 51.

[41] Id. at 18.

[42] Id. at 73.

[43] R. Agpalo, Statutory Construction (3rd ed., 1991), at 321.

[44] Velunta v. Chief, Philippine Constabulary, G.R. No. L-71855, 20 January 1988, 157 SCRA 147; citing PAFLU v. Bureau of Labor Relations, 72 SCRA 396; Jalandoni v. Endaya, 85 SCRA 261; Villegas v. Enrile, 50 SCRA 10; and The Philippine American Management Co., Inc., v. The Philippine American Management Employees Association, 49 SCRA 149.

[45] Maceda v. Macaraig, 274 Phil. 1060 (1991); citing U.S. v. Palacio, 33 Phil. 208 (1916); Commissioner of Customs v. Esso Standard Eastern, Inc., 66 SCRA 113 (1975).

[46] See e.g., Section 1, Republic Act No. 1515; Section 1, Republic Act No. 938.

[47] Interestingly, while Republic Act No. 1224 sought to impose restrictions on the establishment of most places of amusement near public buildings, schools, hospitals and churches, cockpits were specifically exempted from these restrictions. See Section 1, Republic Act No. 1224.

[48] See Section 2285, Revised Administrative Code.

[49] See Section 5(a), P.D. No. 449.

[50] See Section 6, P.D. No. 449.

[51] First established through Executive Order No. 636 (1980).

[52] No. L-72969-70, 230 Phil. 379 (1986).

[53] *Id.* at 301.

[54] The Court further added that even this power of review may have been modified by the old Local Government Code of 1983, which granted to the Sangguniang Panlalawigan the power to review ordinances, resolutions and executive orders issued by the municipal government. *Ibid.*

[55] *Id.* at 299.

[56] No. L-71313, 24 September 1987, 154 SCRA 250.

[57] No. L-78592, 11 August 1988, 164 SCRA 290.

[58] No. 73022, 9 February 1989, 170 SCRA 165.

[59] No. L-56565, 16 June 1988, 162 SCRA 122.

[60] *Id.* at 129.

[61] J. Cruz, concurring, *Cootauco*, *supra* note 61 at 129.

[62] A. PIMENTEL, JR., *The Local Government Code of 1991: The Key to National Development* (1993 ed.) at 477.

[63] It should, furthermore, be borne in mind that cockfighting, although authorized by law, is still a form of gambling. *Canet v. Decena*, G.R. No. 155344, 20 January 2004, 420 SCRA 388, 395.

[64] See Section 2285, Revised Administrative Code.

[65] See Republic Act No. 137 (1947).

[66] See Republic Act No. 229 (1948).

[67] P.D. No. 449.

[68] *Canet v. Decena*, *supra* note 64, citing *Lim v. Pacquing*, G.R. No. 115044, 240 SCRA 649 (1995).

[69] See *Solicitor General v. Metropolitan Manila Authority*, G.R. No. 107282, December 11, 1991, 204 SCRA 837, *Tatel v. Municipality of Virac*, G.R. No. 40243, March 11, 1992, 207 SCRA 157, and *Magtajas v. Pryce Properties*, G.R. No. 111097, July 20, 1994, 234 SCRA 255.

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.