

ROLANDO N. CANET, PETITIONER, VS. MAYOR JULIETA A. DECENA, RESPONDENT.

G.R. No. 155344. January 20, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

On July 27, 1998, the Sangguniang Bayan of Bula, Camarines Sur, passed Resolution No. 049, Series of 1998,[1] authorizing petitioner Rolando N. Canet to establish, operate and maintain a cockpit in Sitio, Cabaya, San Roque, Bula, Camarines Sur.

Subsequently, the Sangguniang Bayan passed Ordinance No. 001, Series of 1999, entitled “An Ordinance Regulating the Operation of Cockpits and Other Related Game-Fowl Activities in the Municipality of Bula, Camarines Sur and Providing Penalties for any Violation to (sic) the Provisions Thereof.”[2] Upon transmittal to respondent Mayor Julieta A. Decena of the said municipality, it was noted that the Ordinance does not contain rules and regulations on cockfighting and other related game fowl activities and a separability clause. The Ordinance was returned to the Sangguniang Bayan. In Resolution No. 078, Series of 1999, Sangguniang Bayan resolved to withdraw, set aside and shelf indefinitely Ordinance No. 001, Series of 1999.[3]

Meanwhile, petitioner, relying on Resolution No. 049, Series of 1998, of the Sangguniang Bayan, filed an application for a mayor’s permit to operate, establish and maintain a cockpit in Sitio Cabuya, San Roque, Bula, Camarines Sur. Respondent Mayor Julieta Decena denied the application on the ground, among others, that under the Local Government Code of 1991, the authority to give licenses for the establishment, operation and maintenance of cockpits as well as the regulation of cockfighting and commercial breeding of gamecocks is vested in the Sangguniang Bayan.[4]

Therefore, she cannot issue the said permit inasmuch as there was no ordinance passed by the Sangguniang Bayan authorizing the same.

On July 26, 1999, petitioner filed a complaint[5] against respondent Mayor with the Regional Trial Court of Pili, Camarines Sur, Branch XXXI, which was docketed as Special Civil Action No. P-84-99, for Mandamus and Damages with Application for Preliminary Mandatory Injunction. Respondent moved for the dismissal of the complaint.

A Resolution was issued by the trial court on January 27, 2000, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the motion to dismiss is hereby denied. Let a writ of preliminary mandatory injunction issue upon the posting of an injunction bond by the plaintiff in the amount of FIFTY THOUSAND PESOS (P50,000.00) executed to defendant to stand for all the damages which she may sustain if it should be finally found that plaintiff is not entitled thereto, said mandatory injunction ordering and commanding herein defendant, incumbent Mayor of the Municipality of Bula, Camarines Sur to approve and issue forthwith the Mayor’s Permit and to accept the fees therefor for plaintiff to establish, maintain and operate a cockpit in Cabaya, San Roque, Bula, Camarines Sur. Upon finality of this resolution, let the main

case be set for further proceedings.

SO ORDERED.[6]

The writ of preliminary mandatory injunction was issued on February 1, 2000.[7]

Respondent filed a petition for certiorari and prohibition with the Court of Appeals, docketed as CA-G.R. SP No. 57797.[8] On April 3, 2000, the Court of Appeals issued a temporary restraining order,[9] directing petitioner and the presiding judge to temporarily cease and desist from enforcing the writ of preliminary mandatory injunction issued on February 1, 2000 in Special Civil Action No. P-84-99.

On June 3, 2002, the Court of Appeals rendered the assailed Decision, the dispositive portion of which reads:

WHEREFORE, the petition is granted and the questioned January 27, 2000 Resolution and February 1, 2000 writ of preliminary mandatory injunction issued by respondent Judge are ANNULLED AND SET ASIDE while the writ of preliminary injunction heretofore issued by this Court on July 10, 2000 is made permanent. No costs.

SO ORDERED.[10]

Petitioner filed a Motion for Reconsideration which was denied for lack of merit in a Resolution dated August 2002.[11]

Hence, this petition for review.

The core issue in this petition is whether or not respondent, in her capacity as Municipal Mayor, can be compelled to issue the necessary business permit to petitioner absent a municipal ordinance which would empower her to do so.

The pertinent provision of law in contention is Section 447 (a) (3) (v) of the Local Government Code of 1991 (Republic Act No. 7160), which reads:

SEC. 447. Powers, 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, and shall:

xxx xxx xxx.

(3) Subject to the provisions of Book II of this Code, grant franchises, 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:

xxx xxx xxx.

(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.

Petitioner admits that there is no ordinance in Bula, Camarines Sur which authorizes the grant of a mayor's permit to operate and maintain a cockfighting arena. However, he invokes Resolution No. 049, S. 1998, wherein the Sangguniang Bayan authorized him to operate a cockpit. Furthermore, he cites Municipal Tax Ordinances Nos. 01, S. 1989, and 05, S. 1993, which generally provide for the issuance of a mayor's permit for the operation of businesses.

Municipal Tax Ordinances Nos. 01, S. 1989 and 05, S. 1993 contain general provisions for the issuance of business permits but do not contain specific provisions prescribing the reasonable fees to be paid in the operation of cockpits and other game fowl activities.

It was Ordinance No. 001, S. 1999 which provided for the collection of application filing fees, ocular inspection fees, mayor's permit fees, filing fees for the institution of complaints, entrance fees and special derby assessments for the operation of cockpits.[12] This Ordinance, however, was withdrawn by the Sangguniang Bayan.

Hence, there being in effect no ordinance allowing the operation of a cockpit, Resolution No. 049, S. 1998, authorizing petitioner to establish, operate and maintain a cockpit in Bula, Camarines Sur cannot be implemented. Suffice it to state in this regard that to compel respondent to issue the mayor's permit would not only be a violation of the explicit provisions of Section 447 of the Local Government Code of 1991, but would also be an undue encroachment on respondent's administrative prerogatives.

Along the same vein, to read into the ordinances relied upon by petitioner objects which were neither specifically mentioned nor enumerated would be to run afoul of the dictum that where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.[13] In other words, it is a basic precept of statutory construction that the express mention of one person, thing, act, or consequence excludes all others, as expressed in the oft-repeated maxim expression unius est exclusio alterius.[14] Elsewise stated, expressum facit cessare tacitum – what is expressed puts an end to what is implied.[15] The rule proceeds from the premise that the legislative body would not have made specific enumerations in a statute, if it had the intention not to restrict its meaning and confine its terms to those expressly mentioned.

Even on the assumption that there is in fact a legislative gap caused by such an omission, neither could the Court presume otherwise and supply the details thereof, because a legislative lacuna cannot be filled by judicial fiat.[16] Indeed, courts may not, in the guise of interpretation, enlarge the scope of a statute and include therein situations not provided nor intended by the lawmakers. An omission at the time of the enactment, whether careless or calculated, cannot be judicially supplied however after later wisdom may recommend the inclusion.[17] Courts are not authorized to insert into the law what they think should be in it or to supply what they think the legislature would have supplied if its attention has been called to the omission.[18]

Courts should not, by construction, revise even the most arbitrary and unfair action of the legislature, nor rewrite the law to conform with what they think should be the law.[19] Nor may they interpret into the law a requirement which the law does not prescribe.[20] Where a statute contains no limitations in its operation or scope, courts should not engraft any.[21] And where a provision of law expressly limits its application to certain transactions, it cannot be extended to other transactions by interpretation.[22] To do any of such things would be to do violence to the language of the law and to invade the legislative sphere.[23]

It should, furthermore, be borne in mind that cockfighting although authorized by law is still a form of gambling. Gambling is essentially antagonistic to the aims of enhancing national productivity and self-reliance.[24] As has been previously said, a statute which authorizes a gambling activity or business should be strictly construed, and every reasonable doubt resolved so as to limit rather than expand the powers and rights claimed by franchise holders under its authority.[25]

WHEREFORE, in view of all the foregoing, the petition is hereby DENIED for lack of merit. The Decision of the Court of Appeals dated June 3, 2002 in CA-G.R. SP No. 57797 is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Record, p. 43.

[2]Id., pp. 45-50.

[3] Id., p. 53.

[4]Id., pp. 54-57.

[5]Id., pp. 58-62.

[6]Id., pp. 94-103, at 102-103.

[7] Id., p. 104.

[8] Entitled Mayor Juliet A. Decena v. Hon. Martin P. Badong, Jr. and Rolando N. Canet.

[9] Record, pp. 441-442.

[10] Rollo, pp. 10-24, penned by Associate Justice Salvador J. Valdez, Jr., concurred in by Associate Justices Mercedes Gozo-Dadole and Amelita G. Tolentino.

[11] Id., pp. 25-29.

[12]Rollo, p. 52.

[13] Hongkong & Shanghai Bank v. Peters, 16 Phil. 824 [1910].

[14] City Government of San Pablo, Laguna v. Reyes, G.R. No. 127708, 305 SCRA 353 [1999]; citing Commissioner of Customs v. CTA, G.R. Nos. 48886-88, 224 SCRA 665 [1993].

[15]Santiago v. Guingona, G.R. No. 134577, 298 SCRA 756 [1998].

[16]Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue, G.R. No. 119786, 295 SCRA 721 [1998], Davao Gulf Lumber Corporation v. Commissioner of Internal Revenue, G.R. No. 117359, 293 SCRA 76 [1998].

[17]Morales v. Subido, G.R. No. L-29658, 26 SCRA 150 [1968].

[18]People v. Garcia, 85 Phil. 657 [1950].

[19] Vera v. Avelino, 77 Phil. 192 [1946]; Baking v. Director of Prisons, G.R. No. L-30364, 28 SCRA 850 [1969]; Ichong v. Hernandez, 101 Phil. 1156 [1957].

[20] Palanca v. City of Manila, 41 Phil. 125 [1920].

[21] Hongkong & Shanghai Bank v. Peters, 16 Phil. 284 [1910].

[22] Palanca v. City of Manila, *supra*; Hongkong & Shanghai Bank v. Peters, *supra*.

[23] Republic Flour Mills v. Commissioner of Customs, G.R. No. L-28463, 39 SCRA 269 [1971]; Crisolo v. Macadaeg, 94 Phil. 862 [1954].

[24]Lim v. Pacquing, G.R. No. 115044, 240 SCRA 649 [1995].

[25]Manila Jockey Club, Inc. v. CA, G.R. No. 103533, 300 SCRA 181, 198 [1998], citing 38 Am Jur 2d Gambling § 18; Aicardi v. Alabama, 19 Wall (US) 632, 22 L ed 215; West Indies, Inc. v. First National Bank, 67 Nev 13, 214 P2d 144.

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