

ERNESTO B. FRANCISCO, JR., PETITIONER, VS. HON. BAYANI F. FERNANDO, IN HIS CAPACITY AS CHAIRMAN OF THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, AND METROPOLITAN MANILA DEVELOP...

G.R. No. 166501. November 16, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

Petitioner Ernesto B. Francisco, Jr. ("petitioner"), as member of the Integrated Bar of the Philippines and taxpayer, filed this original action for the issuance of the writs of Prohibition and Mandamus. Petitioner prays for the Prohibition writ to enjoin respondents Bayani F. Fernando, Chairman of the Metropolitan Manila Development Authority (MMDA) and the MMDA ("respondents") from further implementing its "wet flag scheme" ("Flag Scheme").[1] The Mandamus writ is to compel respondents to "respect and uphold the x x x rights of pedestrians to due process x x x and equal protection of the laws x x x."

Petitioner contends that the Flag Scheme: (1) has no legal basis because the MMDA's governing body, the Metro Manila Council, did not authorize it; (2) violates the Due Process Clause because it is a summary punishment for jaywalking; (3) disregards the Constitutional protection against cruel, degrading, and inhuman punishment; and (4) violates "pedestrian rights" as it exposes pedestrians to various potential hazards.[2]

In their Comment, respondents sought the dismissal of the petition for petitioner's lack of standing to litigate and for violation of the doctrine of hierarchy of courts. Alternatively, respondents contended that the Flag Scheme is a valid preventive measure against jaywalking.

Petitioner filed a Reply, claiming that the Court should take cognizance of the case as it raises issues of "paramount and transcendental importance." Petitioner also contended that he filed this petition directly with the Court because the issues raised in the petition deserve the "direct x x x intervention of the x x x [C]ourt x x x."

We dismiss the petition.

A citizen can raise a constitutional question only when (1) he can show that he has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) a favorable action will likely redress the injury.[3] On the other hand, a party suing as a taxpayer must specifically show that he has a sufficient interest in preventing the illegal expenditure of money raised by taxation and that he will sustain a direct injury as a result of the enforcement of the questioned statute.[4] Petitioner meets none of the requirements under either category.

Nor is there merit to petitioner's claim that the Court should relax the standing requirement because of the "transcendental importance" of the issues the petition raises. As an exception to the standing requirement, the transcendental importance of the issues raised relates to the merits of the petition.[5] Thus, the party invoking it must show, among others, the presence of a clear disregard of a constitutional or statutory prohibition.[6]

Petitioner has not shown such clear constitutional or statutory violation.

On the Flag Scheme's alleged lack of legal basis, we note that all the cities and municipalities within the MMDA's jurisdiction,[7] except Valenzuela City, have each enacted anti-jaywalking ordinances or traffic management codes with provisions for pedestrian regulation. Such fact serves as sufficient basis for respondents' implementation of schemes, or ways and means, to enforce the anti-jaywalking ordinances and similar regulations. After all, the MMDA is an administrative agency tasked with the implementation of rules and regulations enacted by proper authorities.[8] The absence of an anti-jaywalking ordinance in Valenzuela City does not detract from this conclusion absent any proof that respondents implemented the Flag Scheme in that city.

Further, the petition ultimately calls for a factual determination of whether the Flag Scheme is a reasonable enforcement of anti-jaywalking ordinances and similar enactments. This Court is not a trier of facts.[9] The petition proffers mere surmises and speculations on the potential hazards of the Flag Scheme. This Court cannot determine the reasonableness of the Flag Scheme based on mere surmises and speculations.

Lastly, petitioner violated the doctrine of hierarchy of courts when he filed this petition directly with us. This Court's jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, while concurrent with the Regional Trial Courts and the Court of Appeals, does not give litigants unrestrained freedom of choice of forum from which to seek such relief.[10] We relax this rule only in exceptional and compelling circumstances.[11] This is not the case here.

WHEREFORE, we DISMISS the petition.

SO ORDERED.

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

[1] As first implemented on 17 January 2005, respondents describe the Flag Scheme as follows: "[F]ifteen mobile units bearing wet white flags, measuring seven (7) by five (5) feet with the words "MAGLAKAD AT MAG-ABANG SA BANGKETA," were deployed along major Metro Manila thoroughfares. Specifically, the wet flags are hung on the right side of the MMDA mobile units, perpendicular to the sidewalks and in full view of pedestrians and commuters awaiting for a ride, which move slowly along the street." (Rollo, pp. 74-75)

[2] Petitioner listed the following as the hazards likely to result from the Flag Scheme's implementation (rollo, pp. 34-35):

- a) Pedestrians walking ahead of a [sic] MMDA moving vehicle with their backs towards the latter are likely to be hit by the wet flag even before they will come to know that the wet flag is behind them;
- b) The scheme is likely to cause accident and injuries in case of a sudden scampering of pedestrians to avoid getting hit by the wet flag;
- c) Employees going to work are likely to miss a day's work or be late for work because either they have to change clothes or wait for the clothes they are wearing to dry;
- d) Students going to school are likely to miss school or be late for school because either they have to change clothes or wait for their wet clothes to dry;
- e) Women are subjected to indignities because if drenched, sensitive parts of their bodies may be exposed, or they might end up using just any place wherein to change clothes or to dry their clothes;

f) As a matter of fact, anyone hit by the wet flag or wet [sic] or drenched with water is likely to get sick if he or she does not change clothes;

g) Employees coming back from strenuous work are likely to have health problems if hit by the wet flag or wet or drenched with water;

h) Old men and women and children are most likely to be hit and drenched by the wet flag because they do not have the speed and agility to avoid the wet flag on board a moving MMDA vehicle;

i) As observed, the manner of throwing water into the wet flag is so crude and primitive that other pedestrians and bystanders on the sidewalk are likely to get wet by spilled water as water is being thrown by a [sic] MMDA personnel into the wet flag; and,

j) Likewise, as observed, the wet flag itself is already so dirty after just a day or two of use that using it to wet or drench pedestrians is so unsanitary and exposes pedestrians to possible health problems.

[3] Telecommunications & Broadcast Attorneys of the Philippines, Inc. v. COMELEC, 352 Phil. 153 (1998).

[4] Id.

[5] Id.

[6] Senate of the Philippines v. Ermita, G.R. No. 169777, 20 April 2006.

[7] MMDA has jurisdiction over the cities of Caloocan, Las Piñas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Parañaque, Pasay, Pasig, Quezon, San Juan, Taguig, and Valenzuela and the municipalities of Navotas and Pateros.

[8] Metropolitan Manila Development Authority v. Bel-Air Village Association, 385 Phil. 586 (2000); Metropolitan Manila Development Authority v. Garin, G.R. No. 130230, 15 April 2005, 456 SCRA 176.

[9] Chavez v. Public Estates Authority, 433 Phil. 506 (2002).

[10] People v. Cuaresma, G.R. No. 67787, 18 April 1989, 172 SCRA 415.

[11] Santiago v. Vasquez, G.R. Nos. 99289-90, 27 January 1993, 217 SCRA 633.

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