THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY AND BAYANI FERNANDO AS CHAIRMAN OF THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, PETITIONERS, VS. VIRON TRANSPORTATION CO., INC., ...

G.R. No. 170656. August 15, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The following conditions in 1969, as observed by this Court:

> Vehicles have increased in number. Traffic congestion has moved from bad to worse, from tolerable to critical. The number of people who use the thoroughfares has multiplied x x x,[1]

have remained unchecked and have reverberated to this day. Traffic jams continue to clog the streets of Metro Manila, bringing vehicles to a standstill at main road arteries during rush hour traffic and sapping people's energies and patience in the process.

The present petition for review on certiorari, rooted in the traffic congestion problem, questions the authority of the Metropolitan Manila Development Authority (MMDA) to order the closure of provincial bus terminals along Epifanio de los Santos Avenue (EDSA) and major thoroughfares of Metro Manila.

Specifically challenged are two Orders issued by Judge Silvino T. Pampilo, Jr. of the Regional Trial Court (RTC) of Manila, Branch 26 in Civil Case Nos. 03-105850 and 03-106224.

The first assailed Order of September 8, 2005,[2] which resolved a motion for reconsideration filed by herein respondents, declared Executive Order (E.O.) No. 179, hereafter referred to as the E.O., "unconstitutional as it constitutes an unreasonable exercise of police power." The second assailed Order of November 23, 2005[3] denied petitioners' motion for reconsideration.

The following facts are not disputed:

President Gloria Macapagal Arroyo issued the E.O. on February 10, 2003, "PROVIDING FOR THE ESTABLISHMENT OF GREATER MANILA MASS TRANSPORT SYSTEM," the pertinent portions of which read:

> WHEREAS, Metro Manila continues to be the center of employment opportunities, trade and commerce of the Greater Metro Manila area;
>
> WHEREAS, the traffic situation in Metro Manila has affected the adjacent provinces of Bulacan, Cavite, Laguna, and Rizal, owing to the continued movement of residents and industries to more affordable and economically viable locations in these provinces;
>
> WHEREAS, the Metropolitan Manila Development Authority (MMDA) is tasked to undertake measures to

ease traffic congestion in Metro Manila and ensure the convenient and efficient travel of commuters within its jurisdiction;

WHEREAS, a primary cause of traffic congestion in Metro Manila has been the numerous buses plying the streets that impedes [sic] the flow of vehicles and commuters due to the inefficient connectivity of the different transport modes;

WHEREAS, the MMDA has recommended a plan to decongest traffic by eliminating the bus terminals now located along major Metro Manila thoroughfares and providing more convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities that would integrate the existing transport modes, namely the buses, the rail-based systems of the LRT, MRT and PNR and to facilitate and ensure efficient travel through the improved connectivity of the different transport modes;

WHEREAS, the national government must provide the necessary funding requirements to immediately implement and render operational these projects; and extent to MMDA such other assistance as may be warranted to ensure their expeditious prosecution.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. THE PROJECT. - The project shall be identified as GREATER MANILA TRANSPORT SYSTEM Project.

Section 2. PROJECT OBJECTIVES. - In accordance with the plan proposed by MMDA, the project aims to develop four (4) interim intermodal mass transport terminals to integrate the different transport modes, as well as those that shall hereafter be developed, to serve the commuting public in the northwest, north, east, south, and southwest of Metro Manila. Initially, the project shall concentrate on immediately establishing the mass transport terminals for the north and south Metro Manila commuters as hereinafter described.

Section 3. PROJECT IMPLEMENTING AGENCY. - The Metropolitan Manila Development Authority (MMDA), is hereby designated as the implementing Agency for the project. For this purpose, MMDA is directed to undertake such infrastructure development work as may be necessary and, thereafter, manage the project until it may be turned-over to more appropriate agencies, if found suitable and convenient. Specifically, MMDA shall have the following functions and responsibilities:

a) Cause the preparation of the Master Plan for the projects, including the designs and costing;
b) Coordinate the use of the land and/or properties needed for the project with the respective agencies and/or entities owning them;
c) Supervise and manage the construction of the necessary structures and facilities;
d) Execute such contracts or agreements as may be necessary, with the appropriate government agencies, entities, and/or private persons, in accordance with existing laws and pertinent regulations, to facilitate the implementation of the project;
e) Accept, manage and disburse such funds as may be necessary for the construction and/or implementation of the projects, in accordance with prevailing accounting and audit polices and practice in government.
f) Enlist the assistance of any national government agency, office or department, including local government units, government-owned or controlled corporations, as may be necessary;
g) Assign or hire the necessary personnel for the above purposes; and
h) Perform such other related functions as may be necessary to enable it to accomplish the objectives and purposes of this Executive Order.[4] (Emphasis in the original; underscoring supplied)

As the above-quoted portions of the E.O. noted, the primary cause of traffic congestion in Metro Manila has been the numerous buses plying the streets and the inefficient connectivity of the different transport modes;[5] and the MMDA had "recommended a plan to decongest traffic by eliminating the bus terminals now located along major

Metro Manila thoroughfares and providing more and convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities"[6] which plan is referred to under the E.O. as the Greater Manila Mass Transport System Project (the Project).

The E.O. thus designated the MMDA as the implementing agency for the Project.

Pursuant to the E.O., the Metro Manila Council (MMC), the governing board and policymaking body of the MMDA, issued Resolution No. 03-07 series of 2003[7] expressing full support of the Project. Recognizing the imperative to integrate the different transport modes via the establishment of common bus parking terminal areas, the MMC cited the need to remove the bus terminals located along major thoroughfares of Metro Manila.[8]

On February 24, 2003, Viron Transport Co., Inc. (Viron), a domestic corporation engaged in the business of public transportation with a provincial bus operation,[9] filed a petition for declaratory relief[10] before the RTC[11] of Manila.

In its petition which was docketed as Civil Case No. 03-105850, Viron alleged that the MMDA, through Chairman Fernando, was "poised to issue a Circular, Memorandum or Order closing, or tantamount to closing, all provincial bus terminals along EDSA and in the whole of the Metropolis under the pretext of traffic regulation."[12] This impending move, it stressed, would mean the closure of its bus terminal in Sampaloc, Manila and two others in Quezon City.

Alleging that the MMDA's authority does not include the power to direct provincial bus operators to abandon their existing bus terminals to thus deprive them of the use of their property, Viron asked the court to construe the scope, extent and limitation of the power of the MMDA to regulate traffic under R.A. No. 7924, "AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES."

Viron also asked for a ruling on whether the planned closure of provincial bus terminals would contravene the Public Service Act and related laws which mandate public utilities to provide and maintain their own terminals as a requisite for the privilege of operating as common carriers.[13]

Mencorp Transportation System, Inc. (Mencorp), another provincial bus operator, later filed a similar petition for declaratory relief[14] against Executive Secretary Alberto G. Romulo and MMDA Chairman Fernando.

Mencorp asked the court to declare the E.O. unconstitutional and illegal for transgressing the possessory rights of owners and operators of public land transportation units over their respective terminals.

Averring that MMDA Chairman Fernando had begun to implement a plan to close and eliminate all provincial bus terminals along EDSA and in the whole of the metropolis and to transfer their operations to common bus terminals,[15] Mencorp prayed for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction to restrain the impending closure of its bus terminals which it was leasing at the corner of EDSA and New York Street in Cubao and at the intersection of Blumentritt, Laon Laan and Halcon Streets in Quezon City. The petition was docketed as Civil Case No. 03-106224 and was raffled to Branch 47 of the RTC of Manila.

Mencorp's petition was consolidated on June 19, 2003 with Viron's petition which was raffled to Branch 26 of the RTC, Manila.

Mencorp's prayer for a TRO and/or writ of injunction was denied as was its application for the issuance of a preliminary injunction.[16]

In the Pre-Trial Order[17] issued by the trial court, the issues were narrowed down to whether 1) the MMDA's power to regulate traffic in Metro Manila included the power to direct provincial bus operators to abandon and

close their duly established and existing bus terminals in order to conduct business in a common terminal; (2) the E.O. is consistent with the Public Service Act and the Constitution; and (3) provincial bus operators would be deprived of their real properties without due process of law should they be required to use the common bus terminals.

Upon the agreement of the parties, they filed their respective position papers in lieu of hearings.

By Decision[18] of January 24, 2005, the trial court sustained the constitutionality and legality of the E.O. pursuant to R.A. No. 7924, which empowered the MMDA to administer Metro Manila's basic services including those of transport and traffic management.

The trial court held that the E.O. was a valid exercise of the police power of the State as it satisfied the two tests of lawful subject matter and lawful means, hence, Viron's and Mencorp's property rights must yield to police power.

On the separate motions for reconsideration of Viron and Mencorp, the trial court, by Order of September 8, 2005, reversed its Decision, this time holding that the E.O. was "an unreasonable exercise of police power"; that the authority of the MMDA under Section (5)(e) of R.A. No. 7924 does not include the power to order the closure of Viron's and Mencorp's existing bus terminals; and that the E.O. is inconsistent with the provisions of the Public Service Act.

Petitioners' motion for reconsideration was denied by Resolution of November 23, 2005.

Hence, this petition, which faults the trial court for failing to rule that: (1) the requisites of declaratory relief are not present, there being no justiciable controversy in Civil Case Nos. 03-105850 and 03-106224; and (2) the President has the authority to undertake or cause the implementation of the Project.[19]

Petitioners contend that there is no justiciable controversy in the cases for declaratory relief as nothing in the body of the E.O. mentions or orders the closure and elimination of bus terminals along the major thoroughfares of Metro Manila. Viron and Mencorp, they argue, failed to produce any letter or communication from the Executive Department apprising them of an immediate plan to close down their bus terminals.

And petitioners maintain that the E.O. is only an administrative directive to government agencies to coordinate with the MMDA and to make available for use government property along EDSA and South Expressway corridors. They add that the only relation created by the E.O. is that between the Chief Executive and the implementing officials, but not between third persons.

The petition fails.

It is true, as respondents have pointed out, that the alleged deficiency of the consolidated petitions to meet the requirement of justiciability was not among the issues defined for resolution in the Pre-Trial Order of January 12, 2004. It is equally true, however, that the question was repeatedly raised by petitioners in their Answer to Viron's petition,[20] their Comment of April 29, 2003 opposing Mencorp's prayer for the issuance of a TRO,[21] and their Position Paper of August 23, 2004.[22]

In bringing their petitions before the trial court, both respondents pleaded the existence of the essential requisites for their respective petitions for declaratory relief,[23] and refuted petitioners' contention that a justiciable controversy was lacking.[24] There can be no denying, therefore, that the issue was raised and discussed by the parties before the trial court.

The following are the essential requisites for a declaratory relief petition: (a) there must be a justiciable controversy; (b) the controversy must be between persons whose interests are adverse; (c) the party seeking

declaratory relief must have a legal interest in the controversy; and (d) the issue invoked must be ripe for judicial determination.[25]

The requirement of the presence of a justiciable controversy is satisfied when an actual controversy or the ripening seeds thereof exist between the parties, all of whom are sui juris and before the court, and the declaration sought will help in ending the controversy.[26] A question becomes justiciable when it is translated into a claim of right which is actually contested.[27]

In the present cases, respondents' resort to court was prompted by the issuance of the E.O. The 4[th] Whereas clause of the E.O. sets out in clear strokes the MMDA's plan to "decongest traffic by eliminating the bus terminals now located along major Metro Manila thoroughfares and providing more convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities x x x." (Emphasis supplied)

Section 2 of the E.O. thereafter lays down the immediate establishment of common bus terminals for north- and south-bound commuters. For this purpose, Section 8 directs the Department of Budget and Management to allocate funds of not more than one hundred million pesos (P100,000,000) to cover the cost of the construction of the north and south terminals. And the E.O. was made effective immediately.

The MMDA's resolve to immediately implement the Project, its denials to the contrary notwithstanding, is also evident from telltale circumstances, foremost of which was the passage by the MMC of Resolution No. 03-07, Series of 2003 expressing its full support of the immediate implementation of the Project.

Notable from the 5th Whereas clause of the MMC Resolution is the plan to "remove the bus terminals located along major thoroughfares of Metro Manila and an urgent need to integrate the different transport modes." The 7th Whereas clause proceeds to mention the establishment of the North and South terminals.

As alleged in Viron's petition, a diagram of the GMA-MTS North Bus/Rail Terminal had been drawn up, and construction of the terminal is already in progress. The MMDA, in its Answer[28] and Position Paper,[29] in fact affirmed that the government had begun to implement the Project.

It thus appears that the issue has already transcended the boundaries of what is merely conjectural or anticipatory.

Under the circumstances, for respondents to wait for the actual issuance by the MMDA of an order for the closure of respondents' bus terminals would be foolhardy for, by then, the proper action to bring would no longer be for declaratory relief which, under Section 1, Rule 63[30] of the Rules of Court, must be brought before there is a breach or violation of rights.

As for petitioners' contention that the E.O. is a mere administrative issuance which creates no relation with third persons, it does not persuade. Suffice it to stress that to ensure the success of the Project for which the concerned government agencies are directed to coordinate their activities and resources, the existing bus terminals owned, operated or leased by third persons like respondents would have to be eliminated; and respondents would be forced to operate from the common bus terminals.

It cannot be gainsaid that the E.O. would have an adverse effect on respondents. The closure of their bus terminals would mean, among other things, the loss of income from the operation and/or rentals of stalls thereat. Precisely, respondents claim a deprivation of their constitutional right to property without due process of law.

Respondents have thus amply demonstrated a "personal and substantial interest in the case such that [they have] sustained, or will sustain, direct injury as a result of [the E.O.'s] enforcement."[31] Consequently, the established rule that the constitutionality of a law or administrative issuance can be challenged by one who will sustain a

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direct injury as a result of its enforcement has been satisfied by respondents.

On to the merits of the case.

Respondents posit that the MMDA is devoid of authority to order the elimination of their bus terminals under the E.O. which, they argue, is unconstitutional because it violates both the Constitution and the Public Service Act; and that neither is the MMDA clothed with such authority under R.A. No. 7924.

Petitioners submit, however, that the real issue concerns the President's authority to undertake or to cause the implementation of the Project. They assert that the authority of the President is derived from E.O. No. 125, "REORGANIZING THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES," her residual power and/or E.O. No. 292, otherwise known as the Administrative Code of 1987. They add that the E.O. is also a valid exercise of the police power.

E.O. No. 125,[32] which former President Corazon Aquino issued in the exercise of legislative powers, reorganized the then Ministry (now Department) of Transportation and Communications. Sections 4, 5, 6 and 22 of E.O. 125, as amended by E.O. 125-A,[33] read:

> SECTION 4. Mandate. - The Ministry shall be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity of the Executive Branch of the government in the promotion, development and regulation of dependable and coordinated networks of transportation and communication systems as well as in the fast, safe, efficient and reliable postal, transportation and communications services.
>
> To accomplish such mandate, the Ministry shall have the following objectives:
>
> (a) Promote the development of dependable and coordinated networks of transportation and communications systems;
>
> (b) Guide government and private investment in the development of the country's intermodal transportation and communications systems in a most practical, expeditious, and orderly fashion for maximum safety, service, and cost effectiveness; (Emphasis and underscoring supplied)
>
> x x x x
>
> SECTION 5. Powers and Functions. - To accomplish its mandate, the Ministry shall have the following powers and functions:
>
> (a) Formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional and local levels;
>
> (b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such program;
>
> (c) Assess, review and provide direction to transportation and communications research and development programs of the government in coordination with other institutions concerned;
>
> (d) Administer all laws, rules and regulations in the field of transportation and communications; (Emphasis and underscoring supplied)
>
> x x x x

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> SECTION 6. Authority and Responsibility. - The authority and responsibility for the exercise of the mandate of the Ministry and for the discharge of its powers and functions shall be vested in the Minister of Transportation and Communications, hereinafter referred to as the Minister, who shall have supervision and control over the Ministry and shall be appointed by the President. (Emphasis and underscoring supplied)
>
> SECTION 22. Implementing Authority of Minister. - The Minister shall issue such orders, rules, regulations and other issuances as may be necessary to ensure the effective implementation of the provisions of this Executive Order. (Emphasis and underscoring supplied)

It is readily apparent from the abovequoted provisions of E.O. No. 125, as amended, that the President, then possessed of and exercising legislative powers, mandated the DOTC to be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity to promote, develop and regulate networks of transportation and communications. The grant of authority to the DOTC includes the power to establish and administer comprehensive and integrated programs for transportation and communications.

As may be seen further, the Minister (now Secretary) of the DOTC is vested with the authority and responsibility to exercise the mandate given to the department. Accordingly, the DOTC Secretary is authorized to issue such orders, rules, regulations and other issuances as may be necessary to ensure the effective implementation of the law.

Since, under the law, the DOTC is authorized to establish and administer programs and projects for transportation, it follows that the President may exercise the same power and authority to order the implementation of the Project, which admittedly is one for transportation.

Such authority springs from the President's power of control over all executive departments as well as the obligation for the faithful execution of the laws under Article VII, Section 17 of the Constitution which provides:

> SECTION 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

This constitutional provision is echoed in Section 1, Book III of the Administrative Code of 1987. Notably, Section 38, Chapter 37, Book IV of the same Code defines the President's power of supervision and control over the executive departments, viz:

> SECTION 38. Definition of Administrative Relationships. - Unless otherwise expressly stated in the Code or in other laws defining the special relationships of particular agencies, administrative relationships shall be categorized and defined as follows:
>
> (1) Supervision and Control. - Supervision and control shall include authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units; determine priorities in the execution of plans and programs. Unless a different meaning is explicitly provided in the specific law governing the relationship of particular agencies the word "control" shall encompass supervision and control as defined in this paragraph. x x x (Emphasis and underscoring supplied)

Thus, whenever a specific function is entrusted by law or regulation to a subordinate, the President may act directly or merely direct the performance of a duty.[34]

Respecting the President's authority to order the implementation of the Project in the exercise of the police power of the State, suffice it to stress that the powers vested in the DOTC Secretary to establish and administer comprehensive and integrated programs for transportation and communications and to issue orders, rules and regulations to implement such mandate (which, as previously discussed, may also be exercised by the President)

have been so delegated for the good and welfare of the people. Hence, these powers partake of the nature of police power.

Police power is the plenary power vested in the legislature to make, ordain, and establish wholesome and reasonable laws, statutes and ordinances, not repugnant to the Constitution, for the good and welfare of the people.[35] This power to prescribe regulations to promote the health, morals, education, good order or safety, and general welfare of the people flows from the recognition that salus populi est suprema lex â”€ the welfare of the people is the supreme law.

While police power rests primarily with the legislature, such power may be delegated, as it is in fact increasingly being delegated.[36] By virtue of a valid delegation, the power may be exercised by the President and administrative boards[37] as well as by the lawmaking bodies of municipal corporations or local governments under an express delegation by the Local Government Code of 1991.[38]

The authority of the President to order the implementation of the Project notwithstanding, the designation of the MMDA as the implementing agency for the Project may not be sustained. It is ultra vires, there being no legal basis therefor.

It bears stressing that under the provisions of E.O. No. 125, as amended, it is the DOTC, and not the MMDA, which is authorized to establish and implement a project such as the one subject of the cases at bar. Thus, the President, although authorized to establish or cause the implementation of the Project, must exercise the authority through the instrumentality of the DOTC which, by law, is the primary implementing and administrative entity in the promotion, development and regulation of networks of transportation, and the one so authorized to establish and implement a project such as the Project in question.

By designating the MMDA as the implementing agency of the Project, the President clearly overstepped the limits of the authority conferred by law, rendering E.O. No. 179 ultra vires.

In another vein, the validity of the designation of MMDA flies in the absence of a specific grant of authority to it under R.A. No. 7924.

To recall, R.A. No. 7924 declared the Metropolitan Manila area[39] as a "special development and administrative region" and placed the administration of "metro-wide" basic services affecting the region under the MMDA.

Section 2 of R.A. No. 7924 specifically authorizes the MMDA to perform "planning, monitoring and coordinative functions, and in the process exercise regulatory and supervisory authority over the delivery of metro-wide services," including transport and traffic management.[40] Section 5 of the same law enumerates the powers and functions of the MMDA as follows:

> (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;
>
> (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

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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." (Emphasis and underscoring supplied)

The scope of the function of MMDA as an administrative, coordinating and policy-setting body has been settled in Metropolitan Manila Development Authority (MMDA) v. Bel-Air Village Association, Inc.[41] In that case, the Court stressed:

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 "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.' 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:
'SECTION 2. Creation of the Metropolitan Manila Development Authority. -- . . .

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.'[42] (Emphasis and underscoring supplied)

In light of the administrative nature of its powers and functions, the MMDA is devoid of authority to implement the Project as envisioned by the E.O; hence, it could not have been validly designated by the President to undertake the Project. It follows that the MMDA cannot validly order the elimination of respondents' terminals.

Even the MMDA's claimed authority under the police power must necessarily fail in consonance with the above-quoted ruling in MMDA v. Bel-Air Village Association, Inc. and this Court's subsequent ruling in Metropolitan Manila Development Authority v. Garin[43] that the MMDA is not vested with police power.

Even assuming arguendo that police power was delegated to the MMDA, its exercise of such power does not satisfy the two tests of a valid police power measure, viz: (1) the interest of the public generally, as distinguished from that of a particular class, requires its exercise; and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.[44] Stated differently, the police power legislation must be firmly grounded on public interest and welfare and a reasonable relation must exist between the purposes and the means.

As early as Calalang v. Williams,[45] this Court recognized that traffic congestion is a public, not merely a private, concern. The Court therein held that public welfare underlies the contested statute authorizing the Director of Public Works to promulgate rules and regulations to regulate and control traffic on national roads.

Likewise, in Luque v. Villegas,[46] this Court emphasized that public welfare lies at the bottom of any regulatory measure designed "to relieve congestion of traffic, which is, to say the least, a menace to public safety."[47] As such, measures calculated to promote the safety and convenience of the people using the thoroughfares by the regulation of vehicular traffic present a proper subject for the exercise of police power.

Notably, the parties herein concede that traffic congestion is a public concern that needs to be addressed immediately. Indeed, the E.O. was issued due to the felt need to address the worsening traffic congestion in Metro Manila which, the MMDA so determined, is caused by the increasing volume of buses plying the major thoroughfares and the inefficient connectivity of existing transport systems. It is thus beyond cavil that the motivating force behind the issuance of the E.O. is the interest of the public in general.

Are the means employed appropriate and reasonably necessary for the accomplishment of the purpose. Are they not duly oppressive?

With the avowed objective of decongesting traffic in Metro Manila, the E.O. seeks to "eliminate[e] the bus terminals now located along major Metro Manila thoroughfares and provid[e] more convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities x x x."[48] Common carriers with terminals along the major thoroughfares of Metro Manila would thus be compelled to close down their existing bus terminals and use the MMDA-designated common parking areas.

In Lucena Grand Central Terminal, Inc. v. JAC Liner, Inc.,[49] two city ordinances were passed by the Sangguniang Panlungsod of Lucena, directing public utility vehicles to unload and load passengers at the Lucena Grand Central Terminal, which was given the exclusive franchise to operate a single common terminal. Declaring that no other terminals shall be situated, constructed, maintained or established inside or within the city of Lucena, the sanggunian declared as inoperable all temporary terminals therein.

The ordinances were challenged before this Court for being unconstitutional on the ground that, inter alia, the measures constituted an invalid exercise of police power, an undue taking of private property, and a violation of the constitutional prohibition against monopolies.

Citing De la Cruz v. Paras[50] and Lupangco v. Court of Appeals,[51] this Court held that the assailed ordinances

were characterized by overbreadth, as they went beyond what was reasonably necessary to solve the traffic problem in the city. And it found that the compulsory use of the Lucena Grand Terminal was unduly oppressive because it would subject its users to fees, rentals and charges.

> 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.
>
> A due deference to the rights of the individual thus requires a more careful formulation of solutions to societal problems.
>
> From the memorandum 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. (Emphasis and underscoring supplied)

As in Lucena, this Court fails to see how the prohibition against the existence of respondents' terminals can be considered a reasonable necessity to ease traffic congestion in the metropolis. On the contrary, the elimination of respondents' bus terminals brings forth the distinct possibility and the equally harrowing reality of traffic congestion in the common parking areas, a case of transference from one site to another.

Less intrusive measures such as curbing the proliferation of "colorum" buses, vans and taxis entering Metro Manila and using the streets for parking and passenger pick-up points, as respondents suggest, might even be more effective in easing the traffic situation. So would the strict enforcement of traffic rules and the removal of obstructions from major thoroughfares.

As to the alleged confiscatory character of the E.O., it need only to be stated that respondents' certificates of public convenience confer no property right, and are mere licenses or privileges.[52] As such, these must yield to legislation safeguarding the interest of the people.

Even then, for reasons which bear reiteration, the MMDA cannot order the closure of respondents' terminals not only because no authority to implement the Project has been granted nor legislative or police power been delegated to it, but also because the elimination of the terminals does not satisfy the standards of a valid police power measure.

Finally, an order for the closure of respondents' terminals is not in line with the provisions of the Public Service Act.

Paragraph (a), Section 13 of Chapter II of the Public Service Act (now Section 5 of Executive Order No. 202, creating the Land Transportation Franchising and Regulatory Board or LFTRB) vested the Public Service Commission (PSC, now the LTFRB) with "x x x jurisdiction, supervision and control over all public services and their franchises, equipment and other properties x x x."

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Consonant with such grant of authority, the PSC was empowered to "impose such conditions as to construction, equipment, maintenance, service, or operation as the public interests and convenience may reasonably require"[53] in approving any franchise or privilege.

Further, Section 16 (g) and (h) of the Public Service Act[54] provided that the Commission shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

> (g) To compel any public service to furnish safe, adequate, and proper service as regards the manner of furnishing the same as well as the maintenance of the necessary material and equipment.
>
> (h) To require any public service to establish, construct, maintain, and operate any reasonable extension of its existing facilities, where in the judgment of said Commission, such extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same and when the financial condition of the said public service reasonably warrants the original expenditure required in making and operating such extension.(Emphasis and underscoring supplied)

The establishment, as well as the maintenance of vehicle parking areas or passenger terminals, is generally considered a necessary service to be provided by provincial bus operators like respondents, hence, the investments they have poured into the acquisition or lease of suitable terminal sites. Eliminating the terminals would thus run counter to the provisions of the Public Service Act.

This Court commiserates with the MMDA for the roadblocks thrown in the way of its efforts at solving the pestering problem of traffic congestion in Metro Manila. These efforts are commendable, to say the least, in the face of the abominable traffic situation of our roads day in and day out. This Court can only interpret, not change, the law, however. It needs only to be reiterated that it is the DOTC â”€ as the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity to promote, develop and regulate networks of transportation and communications â”€ which has the power to establish and administer a transportation project like the Project subject of the case at bar.

No matter how noble the intentions of the MMDA may be then, any plan, strategy or project which it is not authorized to implement cannot pass muster.

WHEREFORE, the Petition is, in light of the foregoing disquisition, DENIED. E.O. No. 179 is declared NULL and VOID for being ultra vires.

SO ORDERED.

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

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[1]Luque v. Villegas, G.R. No. L-22545, November 28, 1969, 30 SCRA 408, 422.

[2] Rollo, pp. 8-12.

[3] Id. at 13.

[4] Rollo, pp. 60-61.

[5] 4[th] Whereas Clause.

[6] 5[th] Whereas clause.

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[7] Rollo, pp. 194-195.

[8] 5[th] and 6[th] Whereas Clauses of MMDA Resolution No. 03-07, series of 2003. These clauses read:

> WHEREAS, there is a need to remove the bus terminals located along major thoroughfares of Metro Manila and an urgent need to integrate the different transport modes namely the buses, the rail-based systems of the LRT, MRT and PNR in order to decongest traffic and ensure efficient travel and comfort to the commuters;
>
> WHEREAS, the Greater Manila Mass Transport System Project aims to develop five (5) interim intermodal mass transport terminals to integrate the different transport modes to serve the commuting public in the northwest, north, east, south and southwest of Metro Manila.

[9] Viron's authorized routes are from Metro Manila to Pangasinan, Nueva Ecija, Ilocos Sur and Abra and vice versa.

[10] Rollo, pp. 64-75.

[11] Branch 26.

[12] Rollo, pp. 67-68; pp. 4-5 of Viron's Petition.

[13] Rollo, p. 30.

[14] Id. at 149-162.

[15] Id. at 153; page 5 of Mencorp's Petition.

[16] Id. at 205-207.

[17] Id. at 219-221.

[18] Id. at 317-323.

[19] Id. at 35.

[20] Id. at 125-130; dated May 15, 2003.

[21] Id. at 200-204.

[22] Id. at 309-316.

[23] Id. at 64-75 and 149-162; Viron's petition dated February 21, 2003 and Mencorp's petition dated March 25, 2003.

[24] Id. at 135-148 and 222-249; Viron's Reply dated June 17, 2003 and Viron's Position Paper of March 16, 2004.

[25] Republic v. Orbecido III, G.R. No. 154380, October 5, 2005, 472 SCRA 114, 118; Board of Optometry v. Colet, 328 Phil. 1187, 1205 (1996); Macasiano v. National Housing Authority, G.R. No. 107921, July 1, 1993, 224 SCRA 236, 243.

[26] International Hardwood and Veneer Company of the Philippines v. University of the Philippines, G.R. No. 521518, August 13, 1991, 200 SCRA 554, 569.

[27] International Hardwood and Veneer Company of the Philippines v. University of the Philippines, supra.

[28] Supra note 20 at 126; paragraph 11 thereof.

[29] Supra note 22 at 312.

[30] Section 1 of Rule 63 of the Rules of Court provides:

> SECTION 1. Who may file petition. - Any person interested under a deed, will, contract, or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. (Emphasis supplied)

[31] People v. Vera, 65 Phil. 56, 89 (1937).

[32] Dated January 30, 1987.

[33] "AMENDING EXECUTIVE ORDER NO. 125, ENTITLED 'REORGANIZING THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES,'" dated April 13, 1987.

[34] Chavez v. Romulo, G.R. No. 157036, June 9, 2004, 431 SCRA 534, 555.

[35] Binay v. Domingo, G.R. No. 92389, September 11, 1991, 201 SCRA508, 514; Presidential Commission on Good Government v. Peña, G.R. No. L-77663, April 12, 1988, 159 SCRA 556, 574; Rubi v. Provincial Board of Mindoro, 39 Phil. 660, 708.

[36] In the early case of Pangasinan Transportation Co., Inc. v. The Public Service Commission (70 Phil. 221,229 [1940]), this Court observed that "with the growing complexity of modern life, the multiplication of the subjects of governmental regulation, and the increased difficulty of administering the laws, there is a constantly growing tendency toward the delegation of greater power by the legislature, and toward the approval of the practice by the courts." (Underscoring supplied) Vide also Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration, G.R. No. L-76633, October 18, 1988, 166 SCRA 533, 544.

[37] Abakada Guro Party List v. Ermita, G.R. No. 168056, September 1, 2005, 469 SCRA 1, 117; Metropolitan Manila Development Authority (MMDA) v. Bel-Air Village Association, 385 Phil. 586, 601.

[38] SEC. 16. General Welfare. â”€ 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.

[39] Metropolitan or Metro Manila is a body composed of the local government units of Caloocan, Manila, Mandaluyong, Makati, Pasay, Pasig, Quezon, Muntinlupa, Las Piñas, Marikina, Parañaque, Valenzuela, Malabon, Navotas, Pateros, San Juan and Taguig. (Sec. 1 of R.A. 7924)

[40] Section 3 of R.A. No. 7924 provides the scope of MMDA services :

> SECTION 3. Scope of MMDA Services. - Metro-wide services under the jurisdiction of the MMDA 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 (LGUs) comprising Metropolitan Manila. These services shall include:

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(a) Development planning which includes the preparation of medium and long-term development plans; the development, evaluation and packaging of projects; investments programming; and coordination and monitoring of plan, program and project implementation.
(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.
(c) Solid waste disposal and management which include formulation and implementation of policies, standards, programs and projects for proper and sanitary waste disposal. It shall likewise include the establishment and operation of sanitary land fill and related facilities and the implementation of other alternative programs intended to reduce, reuse and recycle solid waste.
(d) Flood control and sewerage management which include the formulation and implementation of policies, standards, programs and projects for an integrated flood control, drainage and sewerage system.
(e) Urban renewal, zoning, and land use planning, and shelter services which include the formulation, adoption and implementation of policies, standards, rules and regulations, programs and projects to rationalize and optimize urban land use and provide direction to urban growth and expansion, the rehabilitation and development of slum and blighted areas, the development of shelter and housing facilities and the provision of necessary social services thereof.
(f) Health and sanitation, urban protection and pollution control which include the formulation and implementation of policies, rules and regulations, standards, programs and projects for the promotion and safeguarding of the health and sanitation of the region and for the enhancement of ecological balance and the prevention, control and abatement of environmental pollution.
(g) Public safety which includes the formulation and implementation of programs and policies and procedures to achieve public safety, especially preparedness for preventive or rescue operations during times of calamities and disasters such as conflagrations, earthquakes, flood and tidal waves, and coordination and mobilization of resources and the implementation of contingency plans for the rehabilitation and relief operations in coordination with national agencies concerned.

[41] Metropolitan Manila Development Authority (MMDA) v. Bel-Air Village Association, supra note 37.

[42] Supra at 607-608.

[43] G.R. No. 130230, April 15, 2005, 456 SCRA 176, 185.

[44] Lucena Grand Central Terminal, Inc. v. JAC Liner, Inc., G.R. No. 148339, February 23, 2005, 452 SCRA 174, 185; Chavez v. Romulo, supra note 34 at 563; Balacuit v. CFI of Agusan del Norte, G.R. No. L-38429, June 30, 1988, 163 SCRA 182, 191.

[45] 70 Phil. 726, 733 (1940).

[46] Supra note 1.

[47] Supra at 423.

[48] 5[th] Whereas Clause.

[49] Supra note 44.

[50] G.R. No. L-42571-72, July 25, 1983, 123 SCRA 569. In this case, the Court declared as unconstitutional an ordinance passed by the Municipality of Bocaue, Bulacan, which prohibited the operation of all night clubs, cabarets and dance halls within its jurisdiction for the protection of public morals. Stating that the ordinance on its

face was overbroad, the Court held that the purpose sought to be achieved could have been attained by reasonable restrictions rather than an absolute prohibition.

[51] G.R. No. L-77372, April 29, 1988, 160 SCRA 848. The 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. The measure was declared by this Court not only to be unreasonable and violative of academic freedom, but also to be more sweeping than what was necessary.

[52] Luque v. Villegas, supra note 1 at 418.

[53] COMMONWEALTH ACT No. 146, Chapter II, Section 16 (b).

[54] The present provision of Section 5(k) of E.O. No. 202 reads:

> k. To formulate, promulgate, administer, implement and enforce rules and regulations on land transportation public utilities, standards of measurements and/or design, and rules and regulations requiring operators of any public land transportation service to equip, install and provide in their utilities and in their stations such devices, equipment facilities and operating procedures and techniques as may promote safety, protection, comfort and convenience to persons and property in their charges as well as the safety of persons and property within their areas of operations;

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