

METROPOLITAN MANILA DEVELOPMENT AUTHORITY, PETITIONER, VS. TRACKWORKS RAIL TRANSIT ADVERTISING, VENDING AND PROMOTIONS, INC., RESPONDENT.

G.R. No. 179554. December 16, 2009

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

This case concerns whether the Metropolitan Manila Development Authority (MMDA) could unilaterally dismantle the billboards, signages and other advertizing media in the structures of the Metro Rail Transit 3 (MRT3) installed by respondent advertising company by virtue of its existing contract with the owner of the MRT3.

The trial and appellate courts ruled that MMDA did not have the authority to dismantle. MMDA is now before the Court to assail such adverse ruling.

Antecedents

In 1997, the Government, through the Department of Transportation and Communications, entered into a build-lease-transfer agreement (BLT agreement) with Metro Rail Transit Corporation, Limited (MRTC) pursuant to Republic Act No. 6957 (Build, Operate and Transfer Law), under which MRTC undertook to build MRT3 subject to the condition that MRTC would own MRT3 for 25 years, upon the expiration of which the ownership would transfer to the Government.

The BLT agreement stipulated, among others, that MRTC could build and develop commercial premises in the MRT3 structures, or obtain advertising income therefrom, viz:

16.1. Details of Development Rights. DOTC hereby confirms and awards to Metro Rail the rights to (a) develop commercial premises in the Depot and the air space above the Stations, which shall be allowed to such height as is legally and technically feasible, (b) lease or sub-lease interests or assign such interests in the Depot and such air space and (c) obtain any advertising income from the Depot and such air space and LRTS Phase I....

"LRTS Phase I" means the rail transport system comprising about 16.9 line kilometers extending from Taft Avenue, Pasay City, to North Avenue, Quezon City, occupying a strip in the center of EDSA approximately 10.5 meters wide (approximately 12 meters wide at or around the Boni Avenue, Santolan and Buendia Stations), plus about 0.1 to 0.2 line kilometers extending from the North Avenue Station to the Depot, together with the Stations, 73 Light Rail Vehicles and all ancillary plant, equipment and facilities, as more particularly detailed in the Specifications.

16.2. Assignment of Rights. During the Development Rights Period, Metro Rail shall be entitled to assign all or any of its rights, titles and interests in the Development Rights to bona fide real estate developers. In this connection, Metro Rail may enter into such development, lease, sub-lease or other agreements or contracts relating to the Depot and the air space above the Stations (the space not needed for all or any portion of the

operation of the LRTS) for all or any portion of the Development Rights Period....

In 1998, respondent Trackworks Rail Transit Advertising, Vending & Promotions, Inc. (Trackworks) entered into a contract for advertising services with MRTC. Trackworks thereafter installed commercial billboards, signages and other advertizing media in the different parts of the MRT3. In 2001, however, MMDA requested Trackworks to dismantle the billboards, signages and other advertizing media pursuant to MMDA Regulation No. 96-009, whereby MMDA prohibited the posting, installation and display of any kind or form of billboards, signs, posters, streamers, in any part of the road, sidewalk, center island, posts, trees, parks and open space. After Trackworks refused the request of MMDA, MMDA proceeded to dismantle the former's billboards and similar forms of advertisement.

On March 1, 2002, Trackworks filed against MMDA in the Regional Trial Court (RTC) in Pasig City an injunction suit (with prayer for the issuance of a temporary restraining order [TRO] and preliminary injunction), docketed as Civil Case No. 68864.

On March 6, 2002, the RTC (Branch 155) issued a TRO, enjoining MMDA from dismantling or destroying Trackworks' billboards, signages and other advertizing media. On March 25, 2002, the RTC issued a writ of preliminary injunction for the same purpose.

Without filing a motion for reconsideration to challenge the RTC's issuances, MMDA brought a petition for certiorari and prohibition before the Court of Appeals (CA), docketed as C.A.-G.R. SP No. 70932, but the CA denied the petition and affirmed the RTC on August 31, 2004. The CA ultimately denied MMDA's motion for reconsideration through its resolution issued on March 14, 2005.

Thence, MMDA appealed to this Court (G.R. No. 167514), which denied MMDA's petition for review on October 25, 2005.[1]

Ruling of the RTC

In the meanwhile, on October 10, 2005, the RTC (Branch 155) rendered its decision permanently enjoining MMDA from dismantling, removing or destroying the billboards, signages and other advertizing media installed by Trackworks on the interior and exterior structures of the MRT3.[2]

Ruling of the CA

MMDA appealed the RTC's decision to the CA.

On April 30, 2007, the CA denied the MMDA's appeal,[3] holding that Trackworks' right to install billboards, signages and other advertizing media on the interior and exterior structures of the MRT3 must be protected by a writ of permanent injunction; and that MMDA had no power to dismantle, remove or destroy Trackworks' billboards, signages and other advertizing media.[4]

MMDA moved for reconsideration, but the CA resolution denied the motion for reconsideration on September 3, 2007.[5]

Hence, this appeal by petition for review.

Issues

MMDA claims that its mandate under its charter[6] of formulating, coordinating and monitoring of policies, standards, progress and projects for the use of thoroughfares and the promotion of safe and convenient movement of persons and goods prompted its issuance of MMDA Regulation No. 96-009, which reads in part:

- h.) It is unlawful for any person/s, private or public corporations, advertising and promotions companies, movie producers, professionals and service contractors to post, install, display any kind or form of billboards,

signs, posters, streamers, professional service advertisements and other visual clutters in any part of the road, sidewalk, center island, posts, trees parks and open space.

MMDA avers that the conversion of the center island of Epifanio Delos Santos Avenue (EDSA) into the carriageway of the MRT3 line did not exempt the EDSA center island from the coverage of the MMDA regulation;^[7] that the Government's grant of development rights to MRTC was not an abdication of its right to regulate, and, therefore, the development of the MRT3 remained subject to all existing and applicable national and local laws, ordinances, rules and regulations;^[8] that MMDA was merely implementing existing and applicable laws;^[9] that Trackworks' advertising materials were placed indiscriminately and without due regard to safety, and as such might be classified as obstructions and distractions to the motorists traversing EDSA;^[10] and that the interests of a few should not prevail over the good of the greater number in the community whose safety and general welfare MMDA was mandated to protect.^[11]

Trackworks maintains, on the other hand, that MMDA's petition was defective for its failure to raise any genuine question of law; and that the CA's decision dated April 30, 2007 was valid and correct.^[12]

Ruling of the Court

The petition has no merit.

That Trackworks derived its right to install its billboards, signages and other advertizing media in the MRT3 from MRTC's authority under the BLT agreement to develop commercial premises in the MRT3 structure or to obtain advertising income therefrom is no longer debatable. Under the BLT agreement, indeed, MRTC owned the MRT3 for 25 years, upon the expiration of which MRTC would transfer ownership of the MRT3 to the Government.

Considering that MRTC remained to be the owner of the MRT3 during the time material to this case, and until this date, MRTC's entering into the contract for advertising services with Trackworks was a valid exercise of ownership by the former. In fact, in *Metropolitan Manila Development Authority v. Trackworks Rail Transit Advertising, Vending & Promotions, Inc.*,^[13] this Court expressly recognized Trackworks' right to install the billboards, signages and other advertising media pursuant to said contract. The latter's right should, therefore, be respected.

It is futile for MMDA to simply invoke its legal mandate to justify the dismantling of Trackworks' billboards, signages and other advertising media. MMDA simply had no power on its own to dismantle, remove, or destroy the billboards, signages and other advertising media installed on the MRT3 structure by Trackworks. In *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*,^[14] *Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*,^[15] and *Metropolitan Manila Development Authority v. Garin*,^[16] the Court had the occasion to rule that MMDA's powers were limited to the formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installing a system, and administration. Nothing in Republic Act No. 7924 granted MMDA police power, let alone legislative power.^[17]

Clarifying the real nature of MMDA, the Court held:

xxx 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:

Sec.2. Creation of the Metropolitan Manila Development Authority.- xxx.

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 local government units concerning purely local matters.[18]

The Court also agrees with the CA's ruling that MMDA Regulation No. 96-009 and MMC Memorandum Circular No. 88-09 did not apply to Trackworks' billboards, signages and other advertising media. The prohibition against posting, installation and display of billboards, signages and other advertising media applied only to public areas, but MRT3, being private property pursuant to the BLT agreement between the Government and MRTC, was not one of the areas as to which the prohibition applied. Moreover, MMC Memorandum Circular No. 88-09 did not apply to Trackworks' billboards, signages and other advertising media in MRT3, because it did not specifically cover MRT3, and because it was issued a year prior to the construction of MRT3 on the center island of EDSA. Clearly, MMC Memorandum Circular No. 88-09 could not have included MRT3 in its prohibition.

MMDA's insistence that it was only implementing Presidential Decree No. 1096 (Building Code) and its implementing rules and regulations is not persuasive. The power to enforce the provisions of the Building Code was lodged in the Department of Public Works and Highways (DPWH), not in MMDA, considering the law's following provision, thus:

Sec. 201. Responsibility for Administration and Enforcement. -

The administration and enforcement of the provisions of this Code including the imposition of penalties for administrative violations thereof is hereby vested in the Secretary of Public Works, Transportation and Communications, hereinafter referred to as the "Secretary."

There is also no evidence showing that MMDA had been delegated by DPWH to implement the Building Code.

WHEREFORE, we deny the petition for review, and affirm the decision dated April 30, 2007 and the resolution dated September 3, 2007.

Costs against the petitioner.

SO ORDERED.

Puno, (Chairperson), Carpio Morales, Leonardo-De Castro, and Villarama, Jr., concur.

[1] Metro Manila Development Authority v. Trackworks Rail Transit Advertising, Vending & Promotions, Inc. G.R. No. 167514, 25 October 2005, 474 SCRA 331.

[2] Rollo, pp. 15-16.

[3] Id., pp. 10-22.

[4] Id., p. 17.

[5] Id., p. 24.

[6] Sec. 3 (b), Republic Act No. 7924.

[7] Rollo, p. 42.

[8] Id., p. 44.

[9] Id., p. 45.

[10] Id., p. 49.

[11] Ibid.

[12] Id., pp. 75-102.

[13] G.R. No. 167514, 25 October 2005, 441 SCRA 331.

[14] G.R. No. 135962, 27 March 2000, 328 SCRA 837.

[15] G.R. Nos. 170656 and 170657, 15 August 2007, 530 SCRA 341.

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

[17] Supra, note 14, p. 849.

[18] Id., pp. 849-850.

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