

THE CHIEF OF THE PHILIPPINE CONSTABULARY AND THE CHIEF, GENERAL AFFAIRS SECTION, PHILIPPINE ARMY, PETITIONERS, VS. THE JUDGE, COURT OF FIRST INSTANCE OF RIZAL, CALOOCAN CITY AND...

G.R. No. 22308 & 22343-44. March 31, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The issue in these three (3) cases is substantially the same, namely: whether a municipal ordinance may validly authorize licensed cockpits to hold cockfights on days other than those mentioned in Sections 2285 and 2286 of the Revised Administrative Code.[1]

G. R. No. L-22308 involves an ordinance of the City of Caloocan[2] vesting in its mayor the power to authorize the holding of cockfights in licensed cockpits on ordinary days, not exceeding "three (3) days of any one (1) week". Pursuant to this ordinance, the Mayor of Caloocan had authorized the Grace Park Cockpit, operated by Leon Roque, to hold cockfights, not only on legal holidays, but, also, on Wednesdays. Alleging that the Chief of the Philippine Constabulary, its Provincial Commander in Rizal and Capt. Hermogenes Marco of the Constabulary had illegally stopped the operation of said cockpit on Wednesday, June 2, 1962 and were threatening to stop the operation of said cockpit on other Wednesdays, on June 9, 1962, Roque instituted, against said officers, Civil Case No. 7170 of the Court of First Instance of Rizal, to recover damages and restrain said interference on their part, with a prayer for a writ of preliminary injunction, which was denied by the court, presided over by Judge E. Mencias,[3] upon opposition filed by the defendants in said case.[4] Soon thereafter,[5] Roque moved to dismiss the case, upon the ground that he was "no longer interested in operating" said cockpit "on Wednesdays", which was granted.

However, less than one (1) month later, or on March 18, 1963, Roque, through another counsel, filed Civil Case No.6-C of said court, Caloocan Branch, against the Chief of the Philippine Constabulary and the Chief, General Affairs Section, Philippine Army, to restrain them from interfering in the operation of the same cockpit on Wednesdays. This time Roque got from Judge Gabriel V. Valero, who presided over said Branch, a restraining order. Despite the opposition of the defendants in said case No. 6-C, on August 14, 1963, Judge Valero directed the issuance of the writ of preliminary injunction prayed for by Roque. A reconsideration of the order to this effect having been denied by Judge Valero, on December 6, 1963 said officers of the Constabulary commenced, on January 8, 1964, said Case G. R. No. L-22308 of the Supreme Court against the Judge, the Court of First Instance of Rizal, Caloocan City, and Leon Roque, to annul said orders of August 14 and December 6, 1963 and restrain, preliminarily and later permanently, the enforcement of said writ of preliminary injunction. On January 13, 1964, we issued the writ of preliminary injunction prayed for. About two (2) months later, or on March 10, 1964, said Civil Case No. 6-C of Rizal was dismissed on motion of Roque, upon the ground that he had "lost interest" therein. Soon thereafter, or on March 19, 1964, Roque moved to dismiss Case G.R. No. L-22308 "in order not to bother the valuable time of this Honorable Court".

Cases G. R. Nos. L-22343-22344 refer to an ordinance of the Municipality of Parañaque and another of Pasay City, respectively. That of Parañaque^[6] provided that, in addition to the days permissible under Sections 2285 and 2286 of the Revised Administrative Code, "cockfighting shall be permitted by the mayor on any other day not exceeding six (6) days a month" upon payment of the fee therein prescribed, "which shall constitute a special fund in aid to the municipal finance, to be disposed of by the municipal council for health center, education or for the maintenance of peace and order, as may be directed by the municipal council".

As in case G.R. No. L-22308, on October 2, 1962, Candido Ignacio and Claro Cortez, as operators of the Parañaque Cockpit Stadium, which had been authorized to hold cockfights on ordinary days, pursuant to said Ordinance No. 3, commenced Civil Case No. 436-R of the Court of First Instance of Rizal, to restrain the Philippine Constabulary and its agents from stopping and otherwise interfering with the holding of cockfights on ordinary days and secure a judgment declaring said Ordinance No. 3 legal and binding. On motion of defendants therein, said case was, on October 10, 1962, dismissed without prejudice, to be, in effect, revived on October 27, 1962, as Case No. 442-R of the same court, Branch III, Pasay City, presided over by Hon. Pedro J. Bautista, against the Provincial Commander of the Constabulary in Rizal, including, later, the Secretary of National Defense. On October 31, 1962, Judge Bautista issued ex-parte the writ of preliminary injunction prayed for by Ignacio and Cortez. Although as early as November 16, 1962, the defendants in said case had moved for the dissolution of said writ, citing the case of Quimsing vs. Lachica, G. R. No. L-14683 (decided on May 30, 1961), the court took no action on said motion. What is more, the hearing of the case was postponed from January 3 to April 17, 1963, thence to May 21 and later on July 3, 1963.

Meanwhile, or on November 6, 1962, Pilar O. Santiago had instituted a similar action—Civil Case No. 2309-P of the Court of First Instance of Rizal—to restrain the Constabulary from interfering with the operation of the Pasay Cockpit on days other than legal holidays, as authorized by the City Mayor of Pasay pursuant to a City Ordinance of Pasay. In her complaint, Pilar O. Santiago prayed for a writ of preliminary injunction, which then Judge Angel Mojica, who presided the Branch of the court to which the case had been assigned, denied on November 12, 1962. A motion to reconsider this resolution having, likewise, failed, the case was, on motion of Pilar O. Santiago dismissed without prejudice, to be revived, likewise, on January 24, 1963, as Civil Case No. 2330-P, which was assigned to the Branch presided over by said Judge Bautista. Inasmuch as the issue therein was identical to that involved in Case No. 442-R, in which a writ of preliminary injunction had been issued, and that there was pending in Congress a Bill^[7] granting municipal councils the power to authorize cockfighting on any day of the week, on May 22, 1963, Hon. Damaso S. Tengco, who presided over said Branch, as a vacation Judge, deemed it proper to issue said writ in Case No. 442-R, that if said Bill were not approved, the petitioners or plaintiffs in said two (2) cases would forego the benefits derived by them from said injunction.

Invoking this understanding and the fact that said Bill had not been approved by Congress, on July 8, 1963, the respondents in both cases moved for the dismissal thereof. Instead of granting the motion, on July 27, 1963, Judge Bautista gave the parties five (5) days within which to file their memoranda. On July 30, 1963, said defendants reiterated their motion to dismiss and to dissolve the injunctions. Although the last memorandum was filed on August 1, 1963, Judge Bautista did not act on said motion. On October 31, 1963, he caused the two (2) cases to be set for hearing on November 28, 1963, which was postponed to December 26, 1963. On November 29, 1963, said defendants sought a reconsideration of the order of October 31, 1963, which was denied by Judge Bautista on December 24, 1963. Two (2) days later he gave the parties twenty (20) days within which to file their memoranda.

Believing that the plaintiffs in said two (2) cases were merely delaying the disposition thereof in order to further avail of the benefits of the injunctions improperly issued in their favor, and that the procedure adopted by Judge

Bautista favored a circumvention of the aforementioned provisions of the Revised Administrative Code, the Secretary of National Defense and the Provincial Commander of Rizal instituted in the Supreme Court, on January 20, 1964, cases G. R. Nos. L-22343 and L-22344 against Judge Bautista and the plaintiffs in said cases Nos. 442-R and 2330-P of Rizal, to preliminarily enjoin respondent Judge from further proceeding with these two (2) cases and from further enforcing the aforementioned writs of preliminary injunction, and later to dissolve the same. Three (3) days later, this Court issued the writ of preliminary injunction prayed for. On January 25, 1964, respondents in said cases G. R. Nos. L-22343 and L-22344 moved to suspend said injunction, but this motion was denied on January 30, 1964. Meanwhile, or on January, 1964, Judge Bautista had rendered his decision in said Cases Nos. 442-R and 2330-P dismissing the same and dissolving the writs of preliminary injunction therein issued. Hence, the three (3) principal cases - Cases Nos. 6-C, 442-R and 2330-P of Rizal - involved in G. R. Nos. L-22308, L-22343 and L-22344, respectively, have been dismissed already.

As above stated, on March 19, 1964, Roque moved to dismiss Case G. R. No. L-23308 upon the ground that Case No. 6-C had been dismissed. This notwithstanding, we have deemed it best to render this decision, in view of the theory advanced by cockpit operators - as the records of these cases show -that, until specifically adjudged null and void, municipal ordinances, like those involved in these three (3) cases, should be presumed valid and the grantees of licenses issued pursuant thereto are meanwhile entitled to a writ of preliminary injunction to restrain any interference with the operation of their cockpits, despite our decision in the Quimsing case (*supra*) holding that local councils may not by municipal ordinance authorize cockfighting at any time other than that authorized in Sections 2285 and 2286 of the Revised Administrative Code. In the Quimsing case[8] we held:

"x x x Thus, the issue boils down to whether Republic Act No. 938, as amended, gives local governments a blanket authority to permit cockfighting at any time and for as long as said governments may wish it.

"Upon mature deliberation, we hold that the answer must be in the negative. To begin with, repeals and even amendments by implication are not favored, whereas an affirmative answer would entail a vital amendment, amounting, for all practical purposes, to a repeal, of sections 2285 and 2286 of the Revised Administrative Code. Secondly, grants of power to local governments are to be construed strictly, and doubts in the interpretation thereof should be resolved in favor of the national government and against the political subdivisions concerned. Thirdly, it is a matter of common knowledge that cockfighting is one of the most widespread vices of our population, and that the government has always shown a grave concern over the need of effectively curbing its evil effects. The theory of petitioner herein presupposes that the Republic of the Philippines has completely reversed its position and chosen, instead, to place the matter entirely at the discretion of local governments. We should not, and can not adopt, such premise except when a clear and unequivocal expression of the will of Congress, which, insofar as said premise is concerned, is not manifest from the language used in Republic Act No. 938, as amended.

"Lastly, 'cockpits' and 'cockfighting' are regulated separately by our laws. Thus, section 2243(i) of the Revised Administrative Code empowers municipal councils 'to regulate cockpits'. Yet, the authority of said council over 'cockfighting' is found in sections 2285 and 2286 of said Code, not in said section 2243(i). Similarly, Article 199 of the Revised Penal Code punishes, not illegal 'cockpits', but 'illegal cockfighting'. What is more, participation in cockfights 'on a day other than those permitted by law', is dealt with in said article separately from participation in cockfights 'at a place other than a licensed cockpit'.

"So, too, the authority of local governments, under Republic Act No. 938, to 'regulate x x x the establishment, maintenance and operation of x x x cockpits', does not necessarily connote the power to regulate 'cockfighting', except insofar as the same must take place in a duly licensed 'cockpit'. Again, the first and second proviso in section 1 of said Act, regulating the distance of cockpits and places of amusement therein mentioned from 'any public building, schools, hospitals and churches' and the third proviso of the same section, prohibiting the admission of minors to some of those places of amusement, suggest that the authority conferred in said

provision may include the power to determine the location of cockpits, the type or nature of construction used therefor, the conditions to be observed for the protection of persons therein, the number of cockpits that may be established in each municipality and/or by each operator, the minimum age of the individuals who may be admitted therein, and other matters of similar nature - as distinguished from the days on which cockfighting shall be held and the frequency thereof."

It is clear from the foregoing that the ordinances involved in these three (3) cases are null and void and that respondent Judge had gravely abused his discretion in issuing the aforementioned writs of preliminary injunction, as well as in neither dissolving the same nor forthwith dismissing said cases, notwithstanding the fact that his attention had been called to our decision in the Quimsing case as early as November 16, 1962, and that the main respondents herein had agreed to give up their claims, should Congress fail to pass House Bill No. 7504, which was not approved in Congress. Thus, several parties had, through the action and the omissions of the judicial branch of the government, succeeded, not only in evading the law, but, also, in preventing the executive department from executing and enforcing the same, for over two (2) years. Surely, more caution should be exercised to avoid such occurrence, if we hope to keep the faith of the people in the courts of justice.

WHEREFORE, these three (3) cases are hereby dismissed, with costs against the main respondents therein.

IT IS SO ORDERED.

Bengzon, C.J., Bautista Angelo, Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur. Dizon, J., on leave.

[1] "x x x only upon legal holidays and for a period x x x not exceeding three days during the celebration of the local fiesta".

[2] Ordinance No. 7, Series of 1962.

[3] On December 20, 1962.

[4] On October 16, 1962.

[5] On February 26, 1963.

[6] Ordinance No. 3, Series of 1962.

[7] House Bill No. 7504, introduced by Congressman Albano.

[8] Reiterated in Chief of the Constabulary vs. Sabungan Bagong Silang, G.R. No. L-22609 (promulgated on February 28, 1966).

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