

ROBINSON V. CASIÑO, PETITIONER, VS. THE COURT OF APPEALS, GINGOOG GALLERA, INC., REPRESENTED BY ITS PRESIDENT AND MANAGER, LINDY L. DE LARA, RESPONDENTS.*G.R. No. 91192, December 02, 1991*

Ponente: REGALADO, J.

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This is a petition to review the decision[1] of the Court of Appeals in CA-G.R. No. SP-156966 which affirmed the judgment[2] rendered by the Regional Trial Court of Gingoog City, declaring the city mayor's permits[3] issued in favor of petitioner Robinson V. Casiño as null and void, and ordering him, his agents, and/or authorized representatives and all persons acting in his behalf, to desist from further operating the cockpit in question, known as the Don Romulo Rodriguez Coliseum (hereinafter, Coliseum). However, the writ of preliminary injunction ordered by the trial court to be made permanent was deleted in the appealed decision, the former having theretofore been dissolved.

Prior to the passage by the Sangguniang Panlungsod of Gingoog City of Resolution No. 49, Code Ordinance, Series of 1984, the Coliseum, located on Block 125 at the corner of Lugod and Jadol Streets, Gingoog City and owned by petitioner, was a licensee of a cockpit under Sections 2285 to 2286 of the Revised Administrative Code. Thereafter, the aforesaid resolution classified certain areas of the city as residential zones, declaring, among others, the site of Coliseum as such. The classification led to the cancellation of petitioner's license to operate the cockpit.

Article 10, Section 6.44 of the same resolution provides:

"Section 6.44. Amendments to the zoning ordinance. - Changes in the zoning ordinance as a result of the review by the Local Review Committee shall be treated as an amendment provided that any amendment to the zoning ordinance or provision thereof shall be carried out through a resolution of three fourths vote of the Sangguniang Panglungsod. Said amendments shall take effect only after approval and authentication by the HSRC."

On August 13, 1985, Resolution No. 378, Code Ordinance, Series of 1985, reclassified Block 125 as within the recreational zone, thus allegedly amending Resolution No. 49. Nine (9) members of the said sangguniang panlungsod, participated, with four (4) members voting for the amendment, while four (4) voted against, and with one (1) abstention. The vice-mayor, as presiding officer, broke the deadlock by voting for the amendment.

When Resolution No. 378 was transmitted to then City Mayor Miguel Paderanga for approval, he returned the same to the sangguniang panlungsod within ten days, without any action, stating that his approval thereof was not necessary since it did not involve a disposition of city government funds, as provided by Section 180 of the Local Government Code and Section 14 of the charter of Gingoog City.

By virtue of said Resolution No. 378, the succeeding city mayor, Arturo S. Lugod, issued to petitioner the

afore--stated permit to operate a cockpit dated April 2, 1986, which was renewed by another permit issued on January 5, 1987.[4]

Private respondent Gingoog Gallera, Inc., (hereafter, Gallera) protested the operation of Coliseum before the Philippine Gamefowl Commission (PGC, for short). The protest was founded on the fact that no certificate of registration had as yet been issued by the PGC,[5] although city mayor's permits were issued to petitioner. On April 11, 1986, the PGC, through OIC Pacifico L. Orog sent a telegram to the Station Commander of Gingoog City to suspend in the meantime the operation of the cockpit. On April 24, 1986, the PGC eventually sent a telegram to the city mayor to stop any cockfight in the Coliseum in view of its failure to register with the PGC.[6]

Thereafter, Special Civil Action No. 86-020 for prohibition and mandamus with preliminary injunction was filed by Gallera before the Regional Trial Court, Branch XXVII, Gingoog City, against petitioner,[7] on the ground that Resolution No. 378, purportedly amending zoning Ordinance No. 49, is invalid. It asserted that the classification of Coliseum's site as still within the residential zone of Gingoog City was accordingly maintained and unchanged, thereby rendering the mayor's permits issued to the latter null and void for being in violation of Section 6 of the Rules and Regulations of the PGC.

On April 25, 1986, the trial court issued a writ of preliminary injunction enjoining petitioner to desist from operating the Coliseum until the PGC shall have finally decided the controversy between petitioner and private respondent Gallera.

Resolving the case on July 25, 1988, the trial court rendered judgment in favor of private respondent, declaring the aforesaid mayor's permits null and void and ordering herein petitioner and all persons representing him or acting in his behalf from further operating the cockpit in question.

Petitioner appealed the said unfavorable judgment to respondent court which, on May 30, 1989, issued the decision under consideration. Hence, this present recourse, after petitioner's motion for reconsideration was denied for lack of merit on October 27, 1989.[8]

In his memorandum, petitioner takes issue with what he conceives as respondents' erroneous contentions that:

(1) the Philippine Gamefowl Commission controls the operations of the Don Romulo Rodriguez Coliseum with respect to the local/ordinary cockfights during Sundays, holidays and fiestas in Gingoog City, despite the fact that the Mayor of Gingoog City issued a mayor's permit for 1986 and 1987 (Exhs. "1" and "9") with the concurrence of the sangguniang panlungsod (Exhs. "20", "21", and "22"); and

(2) the mayor's permits (Exhibits "1" and "9") issued by the Mayor of Gingoog City for the years 1986 and 1987 are allegedly null and void because Resolution 378 (Exh. "O") did not amend Section 6.44 of Resolution 49 (Exh. "L"), Code Ordinance of 1984, the three-fourths (3/4) votes not having been obtained in passing said Resolution 378.[9]

On the first objection of petitioner, it is true that the PGC has the power not of control but only of review and supervision. This power was validly exercised by said commission over Coliseum when it sought to stop the former's operations through the local officials. It did not whimsically order the suspension and the consequent stoppage of Coliseum's operations. Rather, PGC only exercised its power of review over the acts performed by the local authorities in relation to or which affect the exercise of its functions.

Review is a reconsideration or re-examination for purposes of correction. The power of review is exercised to determine whether it is necessary to correct the acts of the subordinate and to see to it that he performs his duties in accordance with law[10]. This the PGC did by bringing to the attention of the local authorities the

non-compliance by petitioner with the rules involved in this case which we find reasonable and necessary in the discharge of the regulatory functions of PGC. PGC may, for that purpose and as it did here, indicate its disapproval of the acts of the local officials concerned^[11] to stress and perform its role with respect to the regulation of cockpits.

On this aspect of the corresponding powers of the PGC and the local authorities, respondent court amply clarified in its resolution of October 27, 1989 the position it had taken in its main opinion, thus:

“With respect to private respondent?appellant’s (herein petitioner) Motion for Reconsideration his interpretation that the decision of the First Division of this Court, promulgated on April 28, 1989, in CA-G.R. SP No. 15024, entitled *Gingoog Gallera, Inc. vs. The Philippine Gamefowl Commission* is ‘diametrically opposed to’ the decision rendered in this case in regard to the primacy of the power/authority between the local officials of the City of Gingoog and the Philippine Gamefowl Commission (PGC) is erroneous.

“Both decisions are in accord with one another. The decision of the First Division that it is the Municipal/City Mayor with the authorization of the Sangguniang Bayan that has the primary power to issue licenses for the operation of ordinary cockpits is of the same tenor and effect as the decision of this case as can be seen in the following wordings:

‘The task of granting licenses to operate cockpits is lodged with City and Municipal Mayors with the concurrence of their respective Sanggunians. This is specifically granted to them by Section 4 of Presidential Decree No. 1802 as amended by Presidential Decree No. 1802-A which states:

“Sec. 4. City and Muni-cipal Mayors with the concurrence of their respective Sanggunians shall have the authority to license and regulate regular cockfighting pursuant to the rules and regulations promulgated by the Commission and subject to its review and supervision.”

‘This is not to say that the power to grant licenses is absolute. It must be noted that certain requirements must be complied (with) before a license may issue. First, the rules and regulations promulgated by the Commission in connection with the operation of cockpits must be observed. And second, that there must be concurrence of the Sanggunians. (Decision, p. 6)

“While this Court agrees with the movant that a mayor’s permit/license is a condition precedent to the issuance of the PGC Registration Certificate, in the case at bar, the city mayor’s permits issued to movant were null and void as they were granted pursuant to Resolution No. 578 which never took effect because of non-compliance with the procedure prescribed in Resolution No. 49. And because of the nullity of the Mayor’s permits, the Registration Certificate No. C-86-816 issued to movant is likewise null and void. The spring cannot rise higher than its source.” ^[12]

The foregoing discussion brings us to the determinant legal query to be resolved, which is the validity of Resolution No. 378. Petitioner argues for the legality of Resolution No. 378 because the same was passed by the sanggunian by a majority of five (5) affirmative votes as against four (4) negative votes. He contends that the three-fourths vote requirement under Section 6.44, Resolution No. 49, aside from its being merely a formal requirement, is an enactment of the sanggunian which is ultra vires.

We do not agree. Resolution No. 378 was declared invalid by the Court of Appeals for failure to comply with the required votes necessary for its validity. Although the charter of the City of Gingoog and the Local Government Code require only a majority for the enactment of an ordinance, Resolution No. 49 cannot be validly amended by the resolution in question without complying with the categorical requirement of a three-fourths vote incorporated in the very same ordinance sought to be amended. The pertinent provisions in the aforesaid city charter and the Local Government Code obviously are of general application and embrace a wider scope or subject matter. In the

enactment of ordinances in general, the application of the aforementioned laws cannot be disputed. Undeniably, however, Section 6.44 of said ordinance regarding amendments thereto is a specific and particular provision for said ordinance and explicitly provides for a different number of votes. Where there is in the same statute a particular enactment and also a general one which its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general statement must be taken to affect only such cases within its language as are not within the provisions of the particular enactment.[13]

In the instant case, although the general law on the matter requires a mere majority, the higher requisite vote in Resolution No. 49 shall govern since municipal authorities are in a better position to determine the evils sought to be prevented by the inclusion or incorporation of particular provisions in enacting a particular statute and, therefore, to pass the appropriate ordinance to attain the main object of the law.[14] This more stringent requirement on the necessary votes for amendments to Resolution No. 49 apparently forestalled the apprehended contingency for, to borrow the words of respondent court, “in an apparent attempt to get rid of this legal stumbling block (the prohibition against a cockpit in a residential zone under Proclamation 49), the Sangguniang Panglunsod of Gingoog City passed Resolution No. 378, Code Ordinance, series of 1985,” x x x “thereby reclassifying Block 125 into a recreational zone.”[15] Withal, it is legally permissible, as exceptions to the general provisions on measures covered by city charters and the Local Government Code, that the vote requirement in certain ordinances may be specially provided for, as in the case of Section 6.44 of Resolution No. 49, instead of the usual majority vote.[16]

In sum, Block 125 where Coliseum is located remains classified as a residential area, hence the operation of a cockpit therein is prohibited. This weighty consideration, which should actually be the principal basis for the nullification by respondent court of the two mayor’s permits issued to petitioner (private respondent-appellant therein), was explained as follows:

“The rules and regulations promulgated by the Commission on June 1, 1981 in connection with the operation of all cockpits in the Philippines particularly Section 6 and 12 thereof reads as follows:

‘Sec. 6. Site and Constructions of cockpits. - Cockpits shall be constructed and operated within the appropriate areas as prescribed in zoning laws or ordinances.

‘Sec. 12. Registration of cockpits. - All cockpits in the Philippines shall register with the Philippine Gamefowl Commission not later than September 30, 1981. No cockpit shall be allowed to operate without the proper registration certificate being secured annually, not later than January 31.’

x x x.

“In the case at bar, there was no registration certificate issued, much less authorization to operate given by the PGC to the private respondent-appellant, a condition precedent before a grant of mayor’s permit or license to conduct cockfighting. Therefore, the mayor’s permits issued to private respondent are null and void.

“Obviously, the PGC did not grant the private respondent-appellant the proper registration certificate to operate his cockpit because the same was not constructed within the appropriate areas as prescribed in zoning laws or ordinances of Gingoog City pursuant to Section 6 of Rules and Regulation of the PGC. x x x”[17]

It bears mention, however, that the issue in this case is the validity of the city mayor’s permits of April 22, 1986 and January 5, 1987 and the nullity whereof is affirmed in this opinion. Respondents observe that they see no useful purpose in having said permits declared null and void since they are already functus officio. We agree, however, with the stance taken by respondent court that this adjudication would still be in order since it can hereafter serve as a guide for the proper and legal issuance of mayor’s permits to cockpit owners. As pertinently

quoted, justice demands that we act then, not only for the vindication of the outraged rights, though gone, but also for the guidance of and as a restraint upon the future.[18]

IN VIEW OF THE FOREGOING, the petition is hereby DENIED. The decision of respondent Court of Appeals promulgated on May 30, 1989 and its resolution dated October 27, 1989 are AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Padilla, JJ., concur.

[1] Penned by Associate Justice Regina G. Ordoñez-Benitez, with the concurrence of Associate Justices Fidel P. Purisima and Hector C. Fule; Rollo, 10-19.

[2] Per Judge Pedro R. Luspo, Sr.; Original Record, 396.

[3] Exhibits “1” and “9”.

[4] Rollo, 10-11.

[5] PGC Reg. Cert. No. C-85-816 was issued to petitioner on April 30, 1987. See Rollo, 36, 45.

[6] Rollo, 12.

[7] Original Record, 1.

[8] Rollo, 21-23.

[9] Ibid., 103.

[10] Philippine Gamefowl Commission vs. Intermediate Appellate Court, et al., 146 SCRA 294 (1986).

[11] Cootuaco vs. Court of Appeals, et al., 162 SCRA 122 (1988).

[12] Rollo, 21-22.

[13] Manila Railroad Company vs. Insular Collector of Customs, 52 Phil. 950 (1929).

[14] See Martin, Public Corporations, 1985 Edition, 69.

[15] Rollo, 16.

[16] See Sec. 224, Revised Administrative Code.

[17] Rollo, 121.

[18] Javier vs. Commission on Elections, et al., 144 SCRA 194 (1986).

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