

SECOND DIVISION

[G.R. NO. 130230, April 15, 2005]

**METROPOLITAN MANILA DEVELOPMENT AUTHORITY,
PETITIONER, VS. DANTE O. GARIN, RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

At issue in this case is the validity of Section 5(f) of Republic Act No. 7924 creating the Metropolitan Manila Development Authority (MMDA), which authorizes it to confiscate and suspend or revoke driver's licenses in the enforcement of traffic laws and regulations.

The issue arose from an incident involving the respondent Dante O. Garin, a lawyer, who was issued a traffic violation receipt (TVR) and his driver's license confiscated for parking illegally along Gandara Street, Binondo, Manila, on 05 August 1995. The following statements were printed on the TVR:

YOU ARE HEREBY DIRECTED TO REPORT TO THE MMDA TRAFFIC OPERATIONS CENTER PORT AREA MANILA AFTER 48 HOURS FROM DATE OF APPREHENSION FOR DISPOSITION/APPROPRIATE ACTION THEREON. CRIMINAL CASE SHALL BE FILED FOR FAILURE TO REDEEM LICENSE AFTER 30 DAYS.

VALID AS TEMPORARY DRIVER'S LICENSE FOR SEVEN DAYS FROM DATE OF APPREHENSION.^[1]

Shortly before the expiration of the TVR's validity, the respondent addressed a letter^[2] to then MMDA Chairman Prospero Oreta requesting the return of his driver's license, and expressing his preference for his case to be filed in court.

Receiving no immediate reply, Garin filed the original complaint^[3] with application for preliminary injunction in Branch 260 of the Regional Trial Court (RTC) of Parañaque, on 12 September 1995, contending that, in the absence of any implementing rules and regulations, Sec. 5(f) of Rep. Act No. 7924 grants the MMDA unbridled discretion to deprive erring motorists of their licenses, pre-empting a judicial determination of the validity of the deprivation, thereby violating the due process clause of the Constitution. The respondent further contended that the provision violates the constitutional prohibition against undue delegation of legislative authority, allowing as it does the MMDA to fix and impose unspecified - and therefore unlimited - fines and other penalties on erring motorists.

In support of his application for a writ of preliminary injunction, Garin alleged that he suffered and continues to suffer great and irreparable damage because of the deprivation of his license and that, absent any implementing rules from the Metro

Manila Council, the TVR and the confiscation of his license have no legal basis.

For its part, the MMDA, represented by the Office of the Solicitor General, pointed out that the powers granted to it by Sec. 5(f) of Rep. Act No. 7924 are limited to the fixing, collection and imposition of fines and penalties for traffic violations, which powers are legislative and executive in nature; the judiciary retains the right to determine the validity of the penalty imposed. It further argued that the doctrine of separation of powers does not preclude "admixture" of the three powers of government in administrative agencies.^[4]

The MMDA also refuted Garin's allegation that the Metro Manila Council, the governing board and policy making body of the petitioner, has as yet to formulate the implementing rules for Sec. 5(f) of Rep. Act No. 7924 and directed the court's attention to MMDA Memorandum Circular No. TT-95-001 dated 15 April 1995. Respondent Garin, however, questioned the validity of MMDA Memorandum Circular No. TT-95-001, as he claims that it was passed by the Metro Manila Council in the absence of a quorum.

Judge Helen Bautista-Ricafort issued a temporary restraining order on 26 September 1995, extending the validity of the TVR as a temporary driver's license for twenty more days. A preliminary mandatory injunction was granted on 23 October 1995, and the MMDA was directed to return the respondent's driver's license.

On 14 August 1997, the trial court rendered the assailed decision^[5] in favor of the herein respondent and held that:

- a. There was indeed no quorum in that First Regular Meeting of the MMDA Council held on March 23, 1995, hence MMDA Memorandum Circular No. TT-95-001, authorizing confiscation of driver's licenses upon issuance of a TVR, is void *ab initio*.
- b. The summary confiscation of a driver's license without first giving the driver an opportunity to be heard; depriving him of a property right (driver's license) without DUE PROCESS; not filing (sic) in Court the complaint of supposed traffic infraction, cannot be justified by any legislation (and is) hence unconstitutional.

WHEREFORE, the temporary writ of preliminary injunction is hereby made permanent; th(e) MMDA is directed to return to plaintiff his driver's license; th(e) MMDA is likewise ordered to desist from confiscating driver's license without first giving the driver the opportunity to be heard in an appropriate proceeding.

In filing this petition,^[6] the MMDA reiterates and reinforces its argument in the court below and contends that a license to operate a motor vehicle is neither a contract nor a property right, but is a privilege subject to reasonable regulation under the police power in the interest of the public safety and welfare. The petitioner further argues that revocation or suspension of this privilege does not constitute a taking without due process as long as the licensee is given the right to appeal the revocation.

To buttress its argument that a licensee may indeed appeal the taking and the

judiciary retains the power to determine the validity of the confiscation, suspension or revocation of the license, the petitioner points out that under the terms of the confiscation, the licensee has three options:

1. To voluntarily pay the imposable fine,
2. To protest the apprehension by filing a protest with the MMDA Adjudication Committee, or
3. To request the referral of the TVR to the Public Prosecutor's Office.

The MMDA likewise argues that Memorandum Circular No. TT-95-001 was validly passed in the presence of a quorum, and that the lower court's finding that it had not was based on a "misapprehension of facts," which the petitioner would have us review. Moreover, it asserts that though the circular is the basis for the issuance of TVRs, the basis for the summary confiscation of licenses is Sec. 5(f) of Rep. Act No. 7924 itself, and that such power is self-executory and does not require the issuance of any implementing regulation or circular.

Meanwhile, on 12 August 2004, the MMDA, through its Chairman Bayani Fernando, implemented Memorandum Circular No. 04, Series of 2004, outlining the procedures for the use of the Metropolitan Traffic Ticket (MTT) scheme. Under the circular, erring motorists are issued an MTT, which can be paid at any Metrobank branch. Traffic enforcers may no longer confiscate drivers' licenses as a matter of course in cases of traffic violations. All motorists with unredeemed TVRs were given seven days from the date of implementation of the new system to pay their fines and redeem their license or vehicle plates.^[7]

It would seem, therefore, that insofar as the absence of a prima facie case to enjoin the petitioner from confiscating drivers' licenses is concerned, recent events have overtaken the Court's need to decide this case, which has been rendered moot and academic by the implementation of Memorandum Circular No. 04, Series of 2004.

The petitioner, however, is not precluded from re-implementing Memorandum Circular No. TT-95-001, or any other scheme, for that matter, that would entail confiscating drivers' licenses. For the proper implementation, therefore, of the petitioner's future programs, this Court deems it appropriate to make the following observations:

1. *A license to operate a motor vehicle is a privilege that the state may withhold in the exercise of its police power.*

The petitioner correctly points out that a license to operate a motor vehicle is not a property right, but a privilege granted by the state, which may be suspended or revoked by the state in the exercise of its police power, in the interest of the public safety and welfare, subject to the procedural due process requirements. This is consistent with our rulings in *Pedro v. Provincial Board of Riza*^[8] on the license to operate a cockpit, *Tan v. Director of Forestry*^[9] and *Oposa v. Factoran*^[10] on timber licensing agreements, and *Surigao Electric Co., Inc. v. Municipality of Surigao*^[11] on a legislative franchise to operate an electric plant.

Petitioner cites a long list of American cases to prove this point, such as *State ex.*

Rel. Sullivan,^[12] which states in part that, “the legislative power to regulate travel over the highways and thoroughfares of the state for the general welfare is extensive. It may be exercised in any reasonable manner to conserve the safety of travelers and pedestrians. Since motor vehicles are instruments of potential danger, their registration and the licensing of their operators have been required almost from their first appearance. The right to operate them in public places is not a natural and unrestrained right, but a privilege subject to reasonable regulation, under the police power, in the interest of the public safety and welfare. The power to license imports further power to withhold or to revoke such license upon noncompliance with prescribed conditions.”

Likewise, the petitioner quotes the Pennsylvania Supreme Court in *Commonwealth v. Funk*,^[13] to the effect that: “Automobiles are vehicles of great speed and power. The use of them constitutes an element of danger to persons and property upon the highways. Carefully operated, an automobile is still a dangerous instrumentality, but, when operated by careless or incompetent persons, it becomes an engine of destruction. The Legislature, in the exercise of the police power of the commonwealth, not only may, but must, prescribe how and by whom motor vehicles shall be operated on the highways. One of the primary purposes of a system of general regulation of the subject matter, as here by the Vehicle Code, is to insure the competency of the operator of motor vehicles. Such a general law is manifestly directed to the promotion of public safety and is well within the police power.”

The common thread running through the cited cases is that it is the legislature, in the exercise of police power, which has the power and responsibility to regulate how and by whom motor vehicles may be operated on the state highways.

2. *The MMDA is not vested with police power.*

In *Metro Manila Development Authority v. Bel-Air Village Association, Inc.*,^[14] we categorically stated that Rep. Act No. 7924 does not grant the MMDA with police power, let alone legislative power, and that all its functions are administrative in nature.

The said case also involved the herein petitioner MMDA which claimed that it had the authority to open a subdivision street owned by the Bel-Air Village Association, Inc. to public traffic because it is an agent of the state endowed with police power in the delivery of basic services in Metro Manila. From this premise, the MMDA argued that there was no need for the City of Makati to enact an ordinance opening Neptune Street to the public.

Tracing the legislative history of Rep. Act No. 7924 creating the MMDA, we concluded that the MMDA is not a local government unit or a public corporation endowed with legislative power, and, unlike its predecessor, the Metro Manila Commission, it has no power to enact ordinances for the welfare of the community. Thus, in the absence of an ordinance from the City of Makati, its own order to open the street was invalid.

We restate here the doctrine in the said decision as it applies to the case at bar: police power, as an inherent attribute of sovereignty, is the power vested by the Constitution in the legislature to make, ordain, and establish all manner of

wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the Constitution, as they shall judge to be for the good and welfare of the commonwealth, and for the subjects of the same.

Having been lodged primarily in the National Legislature, it cannot be exercised by any group or body of individuals not possessing legislative power. The National Legislature, however, may delegate this power to the president and administrative boards as well as the lawmaking bodies of municipal corporations or local government units (LGUs). Once delegated, the agents can exercise only such legislative powers as are conferred on them by the national lawmaking body.

Our Congress delegated police power to the LGUs in the Local Government Code of 1991.^[15] A local government is a "political subdivision of a nation or state which is constituted by law and has substantial control of local affairs."^[16] Local government units are the provinces, cities, municipalities and *barangays*, which exercise police power through their respective legislative bodies.

Metropolitan or Metro Manila is a body composed of several local government units. With the passage of Rep. Act No. 7924 in 1995, Metropolitan Manila was declared as a "special development and administrative region" and the administration of "metro-wide" basic services affecting the region placed under "a development authority" referred to as the MMDA. Thus:

. . . [T]he 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:

"Sec. 2. Creation of the Metropolitan Manila Development Authority. -- -x x x.

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."