

EN BANC

[G.R. No. 159110, December 10, 2013]

**VALENTINO L. LEGASPI, PETITIONER, VS. CITY OF CEBU, T.C.
(TITO) SAYSON AND RICARDO HAPITAN, RESPONDENTS.**

[G.R. No. 159692]

**BIENVENIDO P. JABAN, SR., AND BIENVENIDO DOUGLAS LUKE
BRADBURY JABAN, PETITIONERS, VS. COURT OF APPEALS, CITY
OF CEBU, CITY MAYOR ALVIN GARCIA, SANGGUNIANG
PANLUNSOD OF CITY OF CEBU, HON. RENATO V. OSMEÑA, AS
PRESIDING OFFICER OF THE SANGGUNIANG PANLUNSOD, AND
CITOM CHAIRMAN ALAN GAVIOLA, AS CITOM CHIEF, CITOM
TRAFFIC ENFORCER E. A. ROMERO, AND LITO GILBUENA,
RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

The goal of the decentralization of powers to the local government units (LGUs) is to ensure the enjoyment by each of the territorial and political subdivisions of the State of a genuine and meaningful local autonomy. To attain the goal, the National Legislature has devolved the three great inherent powers of the State to the LGUs. Each political subdivision is thereby vested with such powers subject to constitutional and statutory limitations.

In particular, the *Local Government Code* (LGC) has expressly empowered the LGUs to enact and adopt ordinances to regulate vehicular traffic and to prohibit illegal parking within their jurisdictions. Now challenged before the Court are the constitutionality and validity of one such ordinance on the ground that the ordinance constituted a contravention of the guaranty of due process under the Constitution by authorizing the immobilization of offending vehicles through the clamping of tires. The challenge originated in the Regional Trial Court (RTC) at the instance of the petitioners – vehicle owners who had borne the brunt of the implementation of the ordinance – with the RTC declaring the ordinance unconstitutional, but it has now reached the Court as a consolidated appeal taken in due course by the petitioners after the Court of Appeals (CA) reversed the judgment of the RTC.

Antecedents

On January 27, 1997 the Sangguniang Panlungsod of the City of Cebu enacted Ordinance No. 1664 to authorize the traffic enforcers of Cebu City to immobilize any motor vehicle violating the parking restrictions and prohibitions defined in Ordinance No. 801 (*Traffic Code of Cebu City*).^[1] The pertinent provisions of Ordinance No. 1664 read:

Section 1. POLICY – It is the policy of the government of the City of Cebu to immobilize any motor vehicle violating any provision of any City Ordinance on Parking Prohibitions or Restrictions, more particularly Ordinance No. 801, otherwise known as the Traffic Code of Cebu City, as amended, in order to have a smooth flow of vehicular traffic in all the streets in the City of Cebu at all times.

Section 2. IMMOBILIZATION OF VEHICLES – Any vehicle found violating any provision of any existing ordinance of the City of Cebu which prohibits, regulates or restricts the parking of vehicles shall be immobilized by clamping any tire of the said violating vehicle with the use of a denver boot vehicle immobilizer or any other special gadget designed to immobilize motor vehicles. For this particular purpose, any traffic enforcer of the City (regular PNP Personnel or Cebu City Traffic Law Enforcement Personnel) is hereby authorized to immobilize any violating vehicle as hereinabove provided.

Section 3. PENALTIES – Any motor vehicle, owner or driver violating any ordinance on parking prohibitions, regulations and/or restrictions, as may be provided under Ordinance No. 801, as amended, or any other existing ordinance, shall be penalized in accordance with the penalties imposed in the ordinance so violated, provided that the vehicle immobilizer may not be removed or released without its owner or driver paying first to the City Treasurer of Cebu City through the Traffic Violations Bureau (TVB) all the accumulated penalties for all prior traffic law violations that remain unpaid or unsettled, plus the administrative penalty of Five Hundred Pesos (P500.00) for the immobilization of the said vehicle, and receipts of such payments presented to the concerned personnel of the bureau responsible for the release of the immobilized vehicle, unless otherwise ordered released by any of the following officers:

- a) Chairman, CITOM
- b) Chairman, Committee on Police, Fire and Penology
- c) Asst. City Fiscal Felipe Belciña

3.1 Any person who tampers or tries to release an immobilized or clamped motor vehicle by destroying the denver boot vehicle immobilizer or other such special gadgets, shall be liable for its loss or destruction and shall be prosecuted for such loss or destruction under pain or penalty under the Revised Penal Code and any other existing ordinance of the City of Cebu for the criminal act, in addition to his/her civil liabilities under the Civil Code of the Philippines; Provided that any such act may not be compromised nor settled amicably extrajudicially.

3.2 Any immobilized vehicle which is unattended and constitute an obstruction to the free flow of traffic or a hazard thereof shall be towed to the city government impounding area for safekeeping and may be released only after the provision of Section 3 hereof shall have been fully complied with.

3.3 Any person who violates any provision of this ordinance shall, upon conviction, be penalized with imprisonment of not less than one (1)

month nor more than six (6) months or of a fine of not less than Two Thousand Pesos (P2,000.00) nor more than Five Thousand Pesos (P5,000.00), or both such imprisonment and fine at the discretion of the court.^[2]

On July 29, 1997, Atty. Bienvenido Jaban (Jaban, Sr.) and his son Atty. Bienvenido Douglas Luke Bradbury Jaban (Jaban, Jr.) brought suit in the RTC in Cebu City against the City of Cebu, then represented by Hon. Alvin Garcia, its City Mayor, the Sangguniang Panlungsod of Cebu City and its Presiding Officer, Hon. Renato V. Osmeña, and the chairman and operatives or officers of the City Traffic Operations Management (CITOM), seeking the declaration of Ordinance No. 1644 as unconstitutional for being in violation of due process and for being contrary to law, and damages.^[3] Their complaint alleged that on June 23, 1997, Jaban Sr. had properly parked his car in a paying parking area on Manalili Street, Cebu City to get certain records and documents from his office;^[4] that upon his return after less than 10 minutes, he had found his car being immobilized by a steel clamp, and a notice being posted on the car to the effect that it would be a criminal offense to break the clamp;^[5] that he had been infuriated by the immobilization of his car because he had been thereby rendered unable to meet an important client on that day; that his car was impounded for three days, and was informed at the office of the CITOM that he had first to pay P4,200.00 as a fine to the City Treasurer of Cebu City for the release of his car;^[6] that the fine was imposed without any court hearing and without due process of law, for he was not even told why his car had been immobilized; that he had undergone a similar incident of clamping of his car on the early morning of November 20, 1997 while his car was parked properly in a parking lot in front of the San Nicolas Pasil Market in Cebu City without violating any traffic regulation or causing any obstruction; that he was compelled to pay P1,500.00 (itemized as P500.00 for the clamping and P1,000.00 for the violation) without any court hearing and final judgment; that on May 19, 1997, Jaban, Jr. parked his car in a very secluded place where there was no sign prohibiting parking; that his car was immobilized by CITOM operative Lito Gilbuena; and that he was compelled to pay the total sum of P1,400.00 for the release of his car without a court hearing and a final judgment rendered by a court of justice.^[7]

On August 11, 1997, Valentino Legaspi (Legaspi) likewise sued in the RTC the City of Cebu, T.C. Sayson, Ricardo Hapitan and John Does to demand the delivery of personal property, declaration of nullity of the *Traffic Code of Cebu City*, and damages.^[8] He averred that on the morning of July 29, 1997, he had left his car occupying a portion of the sidewalk and the street outside the gate of his house to make way for the vehicle of the *anay* exterminator who had asked to be allowed to unload his materials and equipment from the front of the residence inasmuch as his daughter's car had been parked in the carport, with the assurance that the unloading would not take too long;^[9] that while waiting for the *anay* exterminator to finish unloading, the phone in his office inside the house had rung, impelling him to go into the house to answer the call; that after a short while, his son-in-law informed him that unknown persons had clamped the front wheel of his car;^[10] that he rushed outside and found a traffic citation stating that his car had been clamped by CITOM representatives with a warning that the unauthorized removal of the clamp would subject the remover to criminal charges;^[11] and that in the late afternoon a group headed by Ricardo Hapitan towed the car even if it was not

obstructing the flow of traffic.^[12]

In separate answers for the City of Cebu and its co-defendants,^[13] the City Attorney of Cebu presented similar defenses, essentially stating that the traffic enforcers had only upheld the law by clamping the vehicles of the plaintiffs,^[14] and that Ordinance No. 1664 enjoyed the presumption of constitutionality and validity.^[15]

The cases were consolidated before Branch 58 of the RTC, which, after trial, rendered on January 22, 1999 its decision declaring Ordinance No. 1664 as null and void upon the following ratiocination:

In clear and simple phrase, the essence of due process was expressed by Daniel Webster as a "law which hears before it condemns". In another case[s], "procedural due process is that which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial." It contemplate(s) notice and opportunity to be heard before judgment is rendered affecting ones (sic) person or property." In both procedural and substantive due process, a hearing is always a pre-requisite, hence, the taking or deprivation of one's life, liberty or property must be done upon and with observance of the "due process" clause of the Constitution and the non-observance or violation thereof is, perforce, unconstitutional.

Under Ordinance No. 1664, when a vehicle is parked in a prohibited, restrcyted (sic) or regulated area in the street or along the street, the vehicle is immobilized by clamping any tire of said vehicle with the use of a denver boot vehicle immobilizer or any other special gadget which immobilized the motor vehicle. The violating vehicle is immobilized, thus, depriving its owner of the use thereof at the sole determination of any traffic enforcer or regular PNP personnel or Cebu City Traffic Law Enforcement Personnel. The vehicle immobilizer cannot be removed or released without the owner or driver paying first to the City Treasurer of Cebu through the Traffic Violations Bureau all the accumulated penalties of all unpaid or unsettled traffic law violations, plus the administrative penalty of P500.00 and, further, the immobilized vehicle shall be released only upon presentation of the receipt of said payments and upon release order by the Chairman, CITOM, or Chairman, Committee on Police, Fire and Penology, or Asst. City Fiscal Felipe Belcina. It should be stressed that the owner of the immobilized vehicle shall have to undergo all these ordeals at the mercy of the Traffic Law Enforcer who, as the Ordinance in question mandates, is the arresting officer, prosecutor, Judge and collector. Otherwise stated, the owner of the immobilized motor vehicle is deprived of his right to the use of his/her vehicle and penalized without a hearing by a person who is not legally or duly vested with such rights, power or authority. The Ordinance in question is penal in nature, and it has been held;

x x x x

WHEREFORE, premised (sic) considered, judgment is hereby rendered declaring Ordinance No. 1664 unconstitutional and directing the defendant City of Cebu to pay the plaintiff Valentino Legaspi the sum of

P110,000.00 representing the value of his car, and to all the plaintiffs, Valentino L. Legaspi, Bienvenido P. Jaban and Bienvenido Douglas Luke Bradbury Jaban, the sum of P100,000.00 each or P300,000.00 all as nominal damages and another P100,000.00 each or P300,000.00 all as temperate or moderate damages. With costs against defendant City of Cebu.

SO ORDERED.^[16] (citations omitted)

The City of Cebu and its co-defendants appealed to the CA, assigning the following errors to the RTC, namely: (a) the RTC erred in declaring that Ordinance No. 1664 was unconstitutional; (b) granting, *arguendo*, that Ordinance No. 1664 was unconstitutional, the RTC gravely erred in holding that any violation prior to its declaration as being unconstitutional was irrelevant; (c) granting, *arguendo*, that Ordinance No. 1664 was unconstitutional, the RTC gravely erred in awarding damages to the plaintiffs; (d) granting, *arguendo*, that the plaintiffs were entitled to damages, the damages awarded were excessive and contrary to law; and (e) the decision of the RTC was void, because the Office of the Solicitor General (OSG) had not been notified of the proceedings.

On June 16, 2003, the CA promulgated its assailed decision,^[17] overturning the RTC and declaring Ordinance No. 1664 valid, to wit:

The principal thrust of this appeal is the constitutionality of Ordinance 1664. Defendants-appellants contend that the passage of Ordinance 1664 is in accordance with the police powers exercised by the City of Cebu through the Sangguniang Panlungsod and granted by RA 7160, otherwise known as the Local Government Code. A thematic analysis of the law on municipal corporations confirms this view. As in previous legislation, the Local Government Code delegates police powers to the local governments in two ways. Firstly, it enumerates the subjects on which the Sangguniang Panlungsod may exercise these powers. Thus, with respect to the use of public streets, Section 458 of the Code states:

Section 458 (a) The sangguniang panlungsod, as the legislative branch of the city, x x x shall x x x

(5) (v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, park and other public places and approve the construction, improvement, repair and maintenance of the same; establish bus and vehicle stops and terminals or regulate the use of the same by privately owned vehicles which serve the public; regulate garages and the operation of conveyances for hire; designate stands to be occupied by public vehicles when not in use; regulate the putting up of signs, signposts, awnings and awning posts on the streets; and provide for the lighting, cleaning and sprinkling of streets and public places;

(vi) Regulate traffic on all streets and bridges; prohibit encroachments or obstacles thereon and, when necessary in