

FIRST DIVISION

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

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

RESOLUTION

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.