

EN BANC

[G.R. No. 170656, August 15, 2007]

**THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY AND
BAYANI FERNANDO AS CHAIRMAN OF THE METROPOLITAN
MANILA DEVELOPMENT AUTHORITY, PETITIONERS, VS. VIRON
TRANSPORTATION CO., INC., RESPONDENT.**

[G.R. NO. 170657]

**HON. ALBERTO G. ROMULO, EXECUTIVE SECRETARY, THE
METROPOLITAN MANILA DEVELOPMENT AUTHORITY AND
BAYANI FERNANDO AS CHAIRMAN OF THE METROPOLITAN
MANILA DEVELOPMENT AUTHORITY, PETITIONERS, VS.
MENCORP TRANSPORTATION SYSTEM, INC., RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

The following conditions in 1969, as observed by this Court:

Vehicles have increased in number. Traffic congestion has moved from bad to worse, from tolerable to critical. The number of people who use the thoroughfares has multiplied x x x,^[1]

have remained unchecked and have reverberated to this day. Traffic jams continue to clog the streets of Metro Manila, bringing vehicles to a standstill at main road arteries during rush hour traffic and sapping people's energies and patience in the process.

The present petition for review on certiorari, rooted in the traffic congestion problem, questions the authority of the Metropolitan Manila Development Authority (MMDA) to order the closure of provincial bus terminals along Epifanio de los Santos Avenue (EDSA) and major thoroughfares of Metro Manila.

Specifically challenged are two Orders issued by Judge Silvino T. Pampilo, Jr. of the Regional Trial Court (RTC) of Manila, Branch 26 in Civil Case Nos. 03-105850 and 03-106224.

The first assailed Order of September 8, 2005,^[2] which resolved a motion for reconsideration filed by herein respondents, declared Executive Order (E.O.) No. 179, hereafter referred to as the E.O., "unconstitutional as it constitutes an unreasonable exercise of police power." The second assailed Order of November 23, 2005^[3] denied petitioners' motion for reconsideration.

The following facts are not disputed:

President Gloria Macapagal Arroyo issued the E.O. on February 10, 2003, "PROVIDING FOR THE ESTABLISHMENT OF GREATER MANILA MASS TRANSPORT SYSTEM," the pertinent portions of which read:

WHEREAS, Metro Manila continues to be the center of employment opportunities, trade and commerce of the Greater Metro Manila area;

WHEREAS, the traffic situation in Metro Manila has affected the adjacent provinces of Bulacan, Cavite, Laguna, and Rizal, owing to the continued movement of residents and industries to more affordable and economically viable locations in these provinces;

WHEREAS, the Metropolitan Manila Development Authority (MMDA) is tasked to undertake measures to ease traffic congestion in Metro Manila and ensure the convenient and efficient travel of commuters within its jurisdiction;

WHEREAS, a primary cause of traffic congestion in Metro Manila has been the numerous buses plying the streets that impedes [sic] the flow of vehicles and commuters due to the inefficient connectivity of the different transport modes;

WHEREAS, the MMDA has recommended a plan to decongest traffic by eliminating the bus terminals now located along major Metro Manila thoroughfares and providing more convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities that would integrate the existing transport modes, namely the buses, the rail-based systems of the LRT, MRT and PNR and to facilitate and ensure efficient travel through the improved connectivity of the different transport modes;

WHEREAS, the national government must provide the necessary funding requirements to immediately implement and render operational these projects; and extent to MMDA such other assistance as may be warranted to ensure their expeditious prosecution.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. THE PROJECT. - The project shall be identified as GREATER MANILA TRANSPORT SYSTEM Project.

Section 2. PROJECT OBJECTIVES. - In accordance with the plan proposed by MMDA, the project aims to develop four (4) interim intermodal mass transport terminals to integrate the different transport modes, as well as those that shall hereafter be developed, to serve the commuting public in the northwest, north, east, south, and southwest of Metro Manila. Initially, the project shall concentrate on immediately establishing the mass transport terminals for the north and south Metro Manila commuters as hereinafter described.

Section 3. PROJECT IMPLEMENTING AGENCY. - The **Metropolitan Manila Development Authority (MMDA)**, is hereby designated as the implementing Agency for the project. For this purpose, MMDA is directed to undertake such infrastructure development work as may be necessary and, thereafter, manage the project until it may be turned-over to more appropriate agencies, if found suitable and convenient. Specifically, MMDA shall have the following functions and responsibilities:

- a) Cause the preparation of the Master Plan for the projects, including the designs and costing;
- b) Coordinate the use of the land and/or properties needed for the project with the respective agencies and/or entities owning them;
- c) Supervise and manage the construction of the necessary structures and facilities;
- d) Execute such contracts or agreements as may be necessary, with the appropriate government agencies, entities, and/or private persons, in accordance with existing laws and pertinent regulations, to facilitate the implementation of the project;
- e) Accept, manage and disburse such funds as may be necessary for the construction and/or implementation of the projects, in accordance with prevailing accounting and audit policies and practice in government.
- f) Enlist the assistance of any national government agency, office or department, including local government units, government-owned or controlled corporations, as may be necessary;
- g) Assign or hire the necessary personnel for the above purposes; and
- h) Perform such other related functions as may be necessary to enable it to accomplish the objectives and purposes of this Executive Order.^[4]
(Emphasis in the original; underscoring supplied)

As the above-quoted portions of the E.O. noted, the primary cause of traffic congestion in Metro Manila has been the numerous buses plying the streets and the inefficient connectivity of the different transport modes;^[5] and the MMDA had "recommended a plan to decongest traffic by eliminating the bus terminals now located along major Metro Manila thoroughfares and providing more and convenient access to the mass transport system to the commuting public through the provision of mass transport terminal facilities"^[6] which plan is referred to under the E.O. as the Greater Manila Mass Transport System Project (the Project).

The E.O. thus designated the MMDA as the implementing agency for the Project.

Pursuant to the E.O., the Metro Manila Council (MMC), the governing board and policymaking body of the MMDA, issued Resolution No. 03-07 series of 2003^[7] expressing full support of the Project. Recognizing the imperative to integrate the different transport modes via the establishment of common bus parking terminal areas, the MMC cited the need to remove the bus terminals located along major thoroughfares of Metro Manila.^[8]

On February 24, 2003, Viron Transport Co., Inc. (Viron), a domestic corporation engaged in the business of public transportation with a provincial bus operation,^[9] filed a petition for declaratory relief^[10] before the RTC^[11] of Manila.

In its petition which was docketed as Civil Case No. 03-105850, Viron alleged that the MMDA, through Chairman Fernando, was "poised to issue a Circular, Memorandum or Order closing, or tantamount to closing, all provincial bus terminals along EDSA and in the whole of the Metropolis under the pretext of traffic regulation."^[12] This impending move, it stressed, would mean the closure of its bus terminal in Sampaloc, Manila and two others in Quezon City.

Alleging that the MMDA's authority does not include the power to direct provincial bus operators to abandon their existing bus terminals to thus deprive them of the use of their property, Viron asked the court to construe the scope, extent and limitation of the power of the MMDA to regulate traffic under R.A. No. 7924, "AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES."

Viron also asked for a ruling on whether the planned closure of provincial bus terminals would contravene the Public Service Act and related laws which mandate public utilities to provide and maintain their own terminals as a requisite for the privilege of operating as common carriers.^[13]

Mencorp Transportation System, Inc. (Mencorp), another provincial bus operator, later filed a similar petition for declaratory relief^[14] against Executive Secretary Alberto G. Romulo and MMDA Chairman Fernando.

Mencorp asked the court to declare the E.O. unconstitutional and illegal for transgressing the possessory rights of owners and operators of public land transportation units over their respective terminals.

Averring that MMDA Chairman Fernando had begun to implement a plan to close and eliminate all provincial bus terminals along EDSA and in the whole of the metropolis and to transfer their operations to common bus terminals,^[15] Mencorp prayed for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction to restrain the impending closure of its bus terminals which it was leasing at the corner of EDSA and New York Street in Cubao and at the intersection of Blumentritt, Laon Laan and Halcon Streets in Quezon City. The petition was docketed as Civil Case No. 03-106224 and was raffled to Branch 47 of the RTC of Manila.

Mencorp's petition was consolidated on June 19, 2003 with Viron's petition which was raffled to Branch 26 of the RTC, Manila.

Mencorp's prayer for a TRO and/or writ of injunction was denied as was its application for the issuance of a preliminary injunction.^[16]

In the Pre-Trial Order^[17] issued by the trial court, the issues were narrowed down to whether 1) the MMDA's power to regulate traffic in Metro Manila included the power to direct provincial bus operators to abandon and close their duly established and existing bus terminals in order to conduct business in a common terminal; (2) the E.O. is consistent with the Public Service Act and the Constitution; and (3) provincial bus operators would be deprived of their real properties without due

process of law should they be required to use the common bus terminals.

Upon the agreement of the parties, they filed their respective position papers in lieu of hearings.

By Decision^[18] of January 24, 2005, the trial court sustained the constitutionality and legality of the E.O. pursuant to R.A. No. 7924, which empowered the MMDA to administer Metro Manila's basic services including those of transport and traffic management.

The trial court held that the E.O. was a valid exercise of the police power of the State as it satisfied the two tests of lawful subject matter and lawful means, hence, Viron's and Mencorp's property rights must yield to police power.

On the separate motions for reconsideration of Viron and Mencorp, the trial court, by Order of September 8, 2005, reversed its Decision, this time holding that the E.O. was "an unreasonable exercise of police power"; that the authority of the MMDA under Section (5)(e) of R.A. No. 7924 does not include the power to order the closure of Viron's and Mencorp's existing bus terminals; and that the E.O. is inconsistent with the provisions of the Public Service Act.

Petitioners' motion for reconsideration was denied by Resolution of November 23, 2005.

Hence, this petition, which faults the trial court for failing to rule that: (1) the requisites of declaratory relief are not present, there being no justiciable controversy in Civil Case Nos. 03-105850 and 03-106224; and (2) the President has the authority to undertake or cause the implementation of the Project.^[19]

Petitioners contend that there is no justiciable controversy in the cases for declaratory relief as nothing in the body of the E.O. mentions or orders the closure and elimination of bus terminals along the major thoroughfares of Metro Manila. Viron and Mencorp, they argue, failed to produce any letter or communication from the Executive Department apprising them of an immediate plan to close down their bus terminals.

And petitioners maintain that the E.O. is only an administrative directive to government agencies to coordinate with the MMDA and to make available for use government property along EDSA and South Expressway corridors. They add that the only relation created by the E.O. is that between the Chief Executive and the implementing officials, but not between third persons.

The petition fails.

It is true, as respondents have pointed out, that the alleged deficiency of the consolidated petitions to meet the requirement of justiciability was not among the issues defined for resolution in the Pre-Trial Order of January 12, 2004. It is equally true, however, that the question was repeatedly raised by petitioners in their Answer to Viron's petition,^[20] their Comment of April 29, 2003 opposing Mencorp's prayer for the issuance of a TRO,^[21] and their Position Paper of August 23, 2004.^[22]