

THIRD DIVISION

[G.R. No. 131512, January 20, 2000]

LAND TRANSPORTATION OFFICE [LTO], REPRESENTED BY ASSISTANT SECRETARY MANUEL F. BRUAN, LTO REGIONAL OFFICE, REGION X REPRESENTED BY ITS REGIONAL DIRECTOR, TIMOTEO A. GARCIA; AND LTO BUTUAN REPRESENTED BY ROSITA G. SADIAGA, ITS REGISTRAR, PETITIONERS, VS. CITY OF BUTUAN, REPRESENTED IN THIS CASE BY DEMOCRITO D. PLAZA II, CITY MAYOR, RESPONDENTS.

D E C I S I O N

VITUG, J.:

The 1987 Constitution enunciates the policy that the territorial and political subdivisions shall enjoy local autonomy.^[1] In obedience to that, mandate of the fundamental law, Republic Act ("R.A.") No.7160, otherwise known as the Local Government Code,^[2] expresses that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy in order to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals, and that it is a basic aim of the State to provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities and resources.

While the Constitution seeks to strengthen local units and ensure their viability, clearly, however, it has never been the intention of that organic law to create an *imperium in imperio* and install an intra sovereign political subdivision independent of a single sovereign state.

The Court is asked in this instance to resolve the issue of whether under the present set up **the power of the Land Registration Office ("LTO") to register, tricycles in particular, as well as to issue licenses for the driving thereof, has likewise devolved to local government units.**

The Regional Trial Court (Branch 2) of Butuan City held:^[3] that the authority to register tricycles, the grant of the corresponding franchise, the issuance of tricycle drivers' license, and the collection of fees therefor had all been vested in the Local Government Units ("LGUs"). Accordingly, it decreed the issuance of a permanent writ of injunction against LTO, prohibiting and enjoining LTO, as well as its employees and other persons acting in its behalf, from (a) registering tricycles and (b) issuing licenses to drivers of tricycles. The Court of Appeals, on appeal to it, sustained the trial court.

The adverse rulings of both the court *a quo* and the appellate court prompted the LTO to file the instant petition for review on *certiorari* to annul and set aside the

decision,^[4] dated 17 November 1997, of the Court of Appeals affirming the permanent injunctive writ order of the Regional Trial Court (Branch 2) of Butuan City.

Respondent City of Butuan asserts that one of the salient provisions introduced by the Local Government Code is in the area of local taxation which allows LGUs to collect registration fees or charges along with, in its view, the corresponding issuance of all kinds of licenses or permits for the driving of tricycles.

The 1987 Constitution provides:

"Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments."^[5]

Section 129 and Section 133 of the Local Government Code read:

"SEC. 129. *Power to Create Sources of Revenue.* - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units."

"SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

"xxx xxx xxx.

"(I) Taxes, fees or charges for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof, except tricycles."

Relying on the foregoing provisions of the law, the *Sangguniang Panglungsod* ("SP") of Butuan, on 16 August 1992, passed SP Ordinance No.916-92 entitled "*An Ordinance Regulating the Operation of Tricycles-for-Hire, providing mechanism for the issuance of Franchise, Registration and Permit, and Imposing Penalties for Violations thereof and for other Purposes.*" The ordinance provided for, among other things, the payment of franchise fees for the grant of the franchise of tricycles-for-hire, fees for the registration of the vehicle, and fees for the issuance of a permit for the driving thereof.

Petitioner LTO explains that one of the functions of the national government that, indeed, has been transferred to local government units is the franchising authority over tricycles-for-hire of the Land Transportation Franchising and Regulatory Board ("LTFRB") but not, it asseverates, the authority of LTO to register all motor vehicles and to issue to qualified persons of licenses to drive such vehicles.

In order to settle the variant positions of the parties, the City of Butuan, represented by its City Mayor Democrito D. Plaza, filed on 28 June 1994 with the

trial court a petition for "prohibition, mandamus, injunction with a prayer for preliminary restraining order ex-parte" seeking the declaration of the validity of SP Ordinance No.962-93 and the prohibition of the registration of tricycles-for-hire and the issuance of licenses for the driving thereof by the LTO.

LTO opposed the prayer in the petition.

On 20 March 1995, the trial court rendered a resolution; the dispositive portion read:

"In view of the foregoing, let a permanent injunctive writ be issued against the respondent Land Transportation Office and the other respondents, prohibiting and enjoining them, their employees, officers, attorney's or other persons acting in their behalf from forcing or compelling Tricycles to be registered with, and drivers to secure their licenses from respondent LTO or secure franchise from LTFRB and from collecting fees thereon. It should be understood that the registration, franchise of tricycles and driver's license/permit granted or issued by the City of Butuan are valid only within the territorial limits of Butuan City.

"No pronouncement as to costs."^[6]

Petitioners timely moved for a reconsideration of the above resolution but it was to no avail. Petitioners then appealed to the Court of Appeals. In its now assailed decision, the appellate court, on 17 November 1997, sustained the trial court. It ruled:

"WHEREFORE, the petition is hereby DISMISSED and the questioned permanent injunctive writ issued by the court a quo dated March 20, 1995 AFFIRMED."^[7]

Coming up to this Court, petitioners raise this sole assignment of error, to wit:

"The Court of Appeals [has] erred in sustaining the validity of the writ of injunction issued by the trial court which enjoined LTO from (1) registering tricycles-for-hire and (2) issuing licenses for the driving thereof since the Local Government Code devolved only the franchising authority of the LTFRB. Functions of the LTO were not devolved to the LGU's."^[8]

The petition is impressed with merit.

The Department of Transportation and Communications^[9] ("DOTC"), through the LTO and the LTFRB, has since been tasked with implementing laws pertaining to land transportation. The LTO is a line agency under the DOTC whose powers and functions, pursuant to Article III, Section 4 (d) (1),^[10] of R.A. No.4136, otherwise known as *Land Transportation and Traffic Code*, as amended, deal primarily with the registration of all motor vehicles and the licensing of drivers thereof. The LTFRB, upon the other hand, is the governing body tasked by E.O. No. 202, dated 19 June 1987, to regulate the operation of public utility or "for hire" vehicles and to grant franchises or certificates of public convenience ("CPC").^[11] Finely put, registration and *licensing* functions are vested in the LTO while *franchising and regulatory*

responsibilities had been vested in the LTFRB.

Under the Local Government Code, certain functions of the DOTC were transferred to the LGUs, thusly:

"SEC. 458. Powers, Duties, Functions and Compensation. -

"xxx xxx xxx

"(3) Subject to the provisions of Book II of this Code, enact ordinances granting franchises and authorizing the issuance of permits or licenses, upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the city and pursuant to this legislative authority shall:

"xxx xxx xxx.

"(VI) Subject to the guidelines prescribed by the Department of Transportation and Communications, **regulate the operation of tricycles and grant franchises for the operation** thereof within the territorial jurisdiction of the city." (Emphasis supplied)

LGUs indubitably now have the power to regulate the operation of tricycles-for-hire and to grant franchises for the operation thereof. "To regulate" means to fix, establish, or control; to adjust by rule, method, or established mode; to direct by rule or restriction; or to subject to governing principles or laws.^[12] A franchise is defined to be a special privilege to do certain things conferred by government on an individual or corporation, and which does not belong to citizens generally of common right.^[13] On the other hand, "to register" means to record formally and exactly, to enroll, or to enter precisely in a list or the like,^[14] and a "driver's license" is the certificate or license issued by the government which authorizes a person to operate a motor vehicle.^[15] The devolution of the functions of the DOTC, performed by the LTFRB, to the LGUs, as so aptly observed by the Solicitor General, is aimed at curbing the alarming increase of accidents in national highways involving tricycles. It has been the perception that local governments are in good position to achieve the end desired by the law-making body because of their proximity to the situation that can enable them to address that serious concern better than the national government.

It may not be amiss to state, nevertheless, that under Article 458 (a)[3-VI] of the Local Government Code, the power of LGUs to regulate the operation of tricycles and to grant franchises for the operation thereof is still subject to the guidelines prescribed by the DOTC. In compliance therewith, the Department of Transportation and Communications ("DOTC") issued *"Guidelines to Implement the Devolution of LTFRBs Franchising Authority over Tricycles-For-Hire to Local Government units pursuant to the Local Government Code."* Pertinent provisions of the guidelines state:

"In lieu of the Land Transportation Franchising and Regulatory Board (LTFRB) in the DOTC, the Sangguniang Bayan/Sangguniang Panglungsod (SB/SP) shall perform the following:

" Issue, amend, revise, renew, suspend, or cancel MTOP and
(a) prescribe the appropriate terms and conditions therefor;

"xxx xxx xxx.

"Operating Conditions:

- "1. For safety reasons, no tricycles should operate on national highways utilized by 4 wheel vehicles greater than 4 tons and where normal speed exceed 40 KPH. However, the SB/SP may provide exceptions if there is no alternative routes.
- "2. Zones must be within the boundaries of the municipality/city. However, existing zones within more than one municipality/city shall be maintained, provided that operators serving said zone shall secure MTOP's from each of the municipalities/cities having jurisdiction over the areas covered by the zone.
- "3. A common color for tricycles-for-hire operating in the same zone may be imposed. Each unit shall be assigned and bear an identification number, aside from its LTO license plate number.
- "4. An operator wishing to stop service completely, or to suspend service for more than one month, should report in writing such termination or suspension to the SB/SP which originally granted the MTOP prior thereto. Transfer to another zone may be permitted upon application.
- "5. The MTOP shall be valid for three (3) years, renewable for the same period. Transfer to another zone, change of ownership of unit or transfer of MTOP shall be construed as an amendment to an MTOP and shall require appropriate approval of the SB/SP.
- "6. Operators shall employ only drivers duly licensed by LTO for tricycles-for-hire.
- "7. No tricycle-for-hire shall be allowed to carry more passengers and/or goods than it is designed for.
- "8. A tricycle-for-hire shall be allowed to operate like a taxi service, i.e., service is rendered upon demand and without a fixed route within a zone."^[16]

Such as can be gleaned from the explicit language of the statute, as well as the corresponding guidelines issued by DOTC, **the newly delegated powers pertain to the franchising and regulatory powers theretofore exercised by the LTFRB and not to the functions of the LTO relative to the registration of motor vehicles and issuance of licenses for the driving thereof.** Clearly unaffected by the Local Government Code are the powers of LTO under R.A. No.4136 requiring the registration of all kinds of motor vehicles "used or operated on or upon any public highway" in the country. Thus -

"SEC. 5. All motor vehicles and other vehicles must be registered. - (a)
No motor vehicle shall be used or operated on or upon any public