

FIRST DIVISION

[G.R. No. 135962, March 27, 2000]

**METROPOLITAN MANILA DEVELOPMENT AUTHORITY,
PETITIONER, VS. BEL-AIR VILLAGE ASSOCIATION, INC.,
RESPONDENT.**

D E C I S I O N

PUNO, J.:

Not infrequently, the government is tempted to take legal shortcuts to solve urgent problems of the people. But even when government is armed with the best of intention, we cannot allow it to run roughshod over the rule of law. Again, we let the hammer fall and fall hard on the illegal attempt of the MMDA to open for public use a private road in a private subdivision. While we hold that the general welfare should be promoted, we stress that it should not be achieved at the expense of the rule of law.

Petitioner MMDA is a government agency tasked with the delivery of basic services in Metro Manila. Respondent Bel-Air Village Association, Inc. (BAVA) is a non-stock, non-profit corporation whose members are homeowners in Bel-Air Village, a private subdivision in Makati City. Respondent BAVA is the registered owner of Neptune Street, a road inside Bel-Air Village.

On December 30, 1995, respondent received from petitioner, through its Chairman, a notice dated December 22, 1995 requesting respondent to open Neptune Street to public vehicular traffic starting January 2, 1996. The notice reads:

"SUBJECT: NOTICE of the Opening of Neptune Street to Traffic

"Dear President Lindo,

"Please be informed that pursuant to the mandate of the MMDA law or Republic Act No. 7924 which requires the Authority to rationalize the use of roads and/or thoroughfares for the safe and convenient movement of persons, Neptune Street shall be opened to vehicular traffic effective January 2, 1996.

"In view whereof, the undersigned requests you to voluntarily open the points of entry and exit on said street.

"Thank you for your cooperation and whatever assistance that may be extended by your association to the MMDA personnel who will be directing traffic in the area.

"Finally, we are furnishing you with a copy of the handwritten instruction

of the President on the matter.

"Very truly yours,

PROSPERO I. ORETA

Chairman"^[1]

On the same day, respondent was apprised that the perimeter wall separating the subdivision from the adjacent Kalayaan Avenue would be demolished.

On January 2, 1996, respondent instituted against petitioner before the Regional Trial Court, Branch 136, Makati City, Civil Case No. 96-001 for injunction. Respondent prayed for the issuance of a temporary restraining order and preliminary injunction enjoining the opening of Neptune Street and prohibiting the demolition of the perimeter wall. The trial court issued a temporary restraining order the following day.

On January 23, 1996, after due hearing, the trial court denied issuance of a preliminary injunction.^[2] Respondent questioned the denial before the Court of Appeals in CA-G.R. SP No. 39549. The appellate court conducted an ocular inspection of Neptune Street^[3] and on February 13, 1996, it issued a writ of preliminary injunction enjoining the implementation of the MMDA's proposed action.^[4]

On January 28, 1997, the appellate court rendered a Decision on the merits of the case finding that the MMDA has no authority to order the opening of Neptune Street, a private subdivision road and cause the demolition of its perimeter walls. It held that the authority is lodged in the City Council of Makati by ordinance. The decision disposed of as follows:

"WHEREFORE, the Petition is GRANTED; the challenged Order dated January 23, 1995, in Civil Case No. 96-001, is SET ASIDE and the Writ of Preliminary Injunction issued on February 13, 1996 is hereby made permanent.

"For want of sustainable substantiation, the Motion to Cite Roberto L. del Rosario in contempt is denied."^[5]

"No pronouncement as to costs.

"SO ORDERED."^[6]

The Motion for Reconsideration of the decision was denied on September 28, 1998. Hence, this recourse.

Petitioner MMDA raises the following questions:

HAS THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY (MMDA) THE MANDATE TO OPEN NEPTUNE STREET TO PUBLIC TRAFFIC PURSUANT TO ITS REGULATORY AND POLICE POWERS?

II

IS THE PASSAGE OF AN ORDINANCE A CONDITION PRECEDENT BEFORE THE MMDA MAY ORDER THE OPENING OF SUBDIVISION ROADS TO PUBLIC TRAFFIC?

III

IS RESPONDENT BEL-AIR VILLAGE ASSOCIATION, INC. ESTOPPED FROM DENYING OR ASSAILING THE AUTHORITY OF THE MMDA TO OPEN THE SUBJECT STREET?

V

WAS RESPONDENT DEPRIVED OF DUE PROCESS DESPITE THE SEVERAL MEETINGS HELD BETWEEN MMDA AND THE AFFECTED BEL-AIR RESIDENTS AND BAVA OFFICERS?

V

HAS RESPONDENT COME TO COURT WITH UNCLEAN HANDS?"^[7]

Neptune Street is owned by respondent BAVA. It is a private road inside Bel-Air Village, a private residential subdivision in the heart of the financial and commercial district of Makati City. It runs parallel to Kalayaan Avenue, a national road open to the general public. Dividing the two (2) streets is a concrete perimeter wall approximately fifteen (15) feet high. The western end of Neptune Street intersects Nicanor Garcia, formerly Reposo Street, a subdivision road open to public vehicular traffic, while its eastern end intersects Makati Avenue, a national road. Both ends of Neptune Street are guarded by iron gates.

Petitioner MMDA claims that it has the authority to open Neptune Street to public traffic because it is an agent of the state endowed with police power in the delivery of basic services in Metro Manila. One of these basic services is traffic management which involves the regulation of the use of thoroughfares to insure the safety, convenience and welfare of the general public. It is alleged that the police power of MMDA was affirmed by this Court in the consolidated cases of Sangalang v. Intermediate Appellate Court.^[8] From the premise that it has police power, it is now urged that there is no need for the City of Makati to enact an ordinance opening Neptune street to the public.^[9]

Police power is an inherent attribute of sovereignty. It has been defined as 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.^[10] The power is plenary and its scope is vast and pervasive, reaching and justifying measures for public health, public safety, public morals, and the general welfare.^[11]

It bears stressing that police power is lodged primarily in the National Legislature.^[12] It cannot be exercised by any group or body of individuals not possessing legislative power.^[13] 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.^[14] Once delegated, the agents can exercise only such legislative powers as are conferred on them by the national lawmaking body.^[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] The Local Government Code of 1991 defines a local government unit as a "body politic and corporate"^[17]-- one endowed with powers as a political subdivision of the National Government and as a corporate entity representing the inhabitants of its territory.^[18] Local government units are the provinces, cities, municipalities and barangays.^[19] They are also the territorial and political subdivisions of the state.^[20]

Our Congress delegated police power to the local government units in the Local Government Code of 1991. This delegation is found in Section 16 of the same Code, known as the general welfare clause, *viz*:

"Sec. 16. General Welfare.--Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants."^[21]

Local government units exercise police power through their respective legislative bodies. The legislative body of the provincial government is the **sangguniang panlalawigan**, that of the city government is the **sangguniang panlungsod**, that of the municipal government is the **sangguniang bayan**, and that of the barangay is the **sangguniang barangay**. The Local Government Code of 1991 empowers the **sangguniang panlalawigan, sangguniang panlungsod and sangguniang bayan** to "enact ordinances, approve resolutions and appropriate funds for the general welfare of the [province, city or municipality, as the case may be], and its inhabitants pursuant to Section 16 of the Code and in the proper exercise of the corporate powers of the [province, city municipality] provided under

the Code x x x."^[22] The same Code gives the **sangguniang barangay** the power to "enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and to promote the general welfare of the inhabitants thereon."^[23]

Metropolitan or Metro Manila is a body composed of several local government units - i.e., twelve (12) cities and five (5) municipalities, namely, the cities of Caloocan, Manila, Mandaluyong, Makati, Pasay, Pasig, Quezon, Muntinlupa, Las Pinas, Marikina, Paranaque and Valenzuela, and the municipalities of Malabon, , Navotas, , Pateros, San Juan and Taguig. With the passage of Republic Act (R. A.) No. 7924^[24] 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.^[25]

"**Metro-wide services**" are those "services which have metro-wide impact and transcend local political boundaries or entail huge expenditures such that it would not be viable for said services to be provided by the individual local government units comprising Metro Manila."^[26] There are seven (7) basic metro-wide services and the scope of these services cover the following: (1) development planning; (2) transport and traffic management; (3) solid waste disposal and management; (4) flood control and sewerage management; (5) urban renewal, zoning and land use planning, and shelter services; (6) health and sanitation, urban protection and pollution control; and (7) public safety. The basic service of transport and traffic management includes the following:

"(b) Transport and traffic management which include the formulation, coordination, and monitoring of policies, standards, programs and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares, and promotion of safe and convenient movement of persons and goods; provision for the mass transport system and the institution of a system to regulate road users; administration and implementation of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metropolitan Manila;"^[27]

In the delivery of the seven (7) basic services, the MMDA has the following powers and functions:

*"Sec. 5. Functions and powers of the Metro Manila Development Authority.--*The MMDA shall:

(a) Formulate, coordinate and regulate the implementation of medium and long-term plans and programs for the delivery of metro-wide services, land use and physical development within Metropolitan Manila, consistent with national development objectives and priorities;