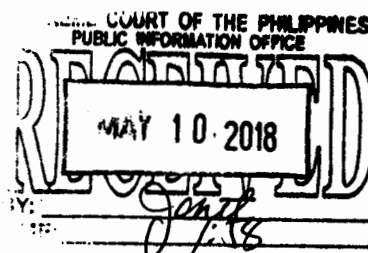




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

HON. LEONCIO EVASCO, JR.,
in his capacity as OIC CITY
ENGINEER OF DAVAO CITY
and HON. WENDEL AVISADO,
in his capacity as THE CITY
ADMINISTRATOR OF DAVAO
CITY,

Petitioners,

- versus -

ALEX P. MONTAÑEZ, doing
business under the name and
style APM or AD AND PROMO
MANAGEMENT,

Respondents,

DAVAO BILLBOARD AND
SIGNMAKERS ASSOCIATION
(DABASA), INC.,

Respondent-Intervenor.

G.R. No. 199172

Present:

SERENO,* *CJ.*,
 LEONARDO-DE CASTRO,** *J.*,
 Acting Chairperson,
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM,* *JJ.*

Promulgated:

FEB 21 2018

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DECISION

LEONARDO-DE CASTRO, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended, seeking to reverse and set aside the Decision¹ dated June 14, 2011 and Amended Decision² dated October 13, 2011 of the Court of Appeals in CA-G.R. CV No. 02281-MIN, where it declared null and void Sections 7, 8, 37 and 45 of the Davao City Ordinance No. 092, Series of 2000 (hereinafter referred to as “Ordinance No. 092-2000” or “the Ordinance”).³

* On official leave.

** Per Special Order No. 2536 dated February 20, 2018.

¹ *Rollo*, pp. 63-82; penned by Associate Justice Rodrigo F. Lim, Jr. with Associate Justices Pamela Ann Abella Maxino and Zenaida T. Galapate-Laguilles concurring.

² Id. at 108-111.

³ Available at <http://ordinances.davaocity.gov.ph/Download.aspx>. (Last visited on May 5, 2017.)

The facts are as follows:

On August 8, 2000, the city government of Davao (City Government), through its Sangguniang Panlungsod, approved Ordinance No. 092-2000 entitled "An Ordinance Regulating the Construction, Repair, Renovation, Erection, Installation and Maintenance of Outdoor Advertising Materials and For Related Purposes." Sections 7, 8, 37, and 45 of the ordinance provided as follows:

CHAPTER 5
SPECIFIC PROVISIONS

Article 1
Advertising Sign

SECTION 7 – BILLBOARD - Outdoor advertising signs shall not be allowed in a residential zone as designated in the Official Zoning Map. Adjacent billboards shall be erected in such a way as to maintain 150.00 meters unobstructed line of sight.

Billboards and other self-supporting outdoor signs along highways shall be located within a minimum of 10.00 meters away from the property lines abutting the road right-of-way.

SECTION 8 – REGULATED AREAS – Bridge approach areas within 200 meters of the following bridges shall be designated as "regulated areas" in order to preserve, among others, the natural view and beauty of the Davao River, Mt. Apo, the Davao City Skyline and the view of Samal Island, to wit:

1. Generoso Bridge I and II;
2. Bolton Bridge I and II;
3. Lasang Bridge

x x x x

CHAPTER 10
FEES

SECTION 37 – FEES – Fees for the application of Sign Permits to be paid at the Office of the City Treasurer shall be as follows:

I. DISPLAY SURFACE

a) Sign fee shall be collected per square meter of the display surface of billboards, business signs, electrical signs, ground signs, projecting signs, roof signs, signboards and wall signs for such amount as follows:

a.1	outdoor video screen.....	₱	150.00
a.2	tri-wind billboard.....	₱	100.00
a.3	neon.....	₱	75.00

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a.4	illuminated.....	₱	50.00
a.5	painted-on.....	₱	30.00
a.6	others.....	₱	15.00
b)	Posters (per piece).....	₱	5.00
c)	Temporary signs (per square meter).....	₱	5.00
d)	Other advertising and/or propaganda Materials (per square meter).....	₱	10.00
e)	Building lines/staking line and Grade (fixed amount).....	₱	200.00

II. STRUCTURE

Erection of support for any signboard, billboard and the like shall be charged a fee as follows:

1)	up to 4 square meter of signboard.....	₱	100.00
2)	in every square meter or fraction thereof.....	₱	50.00

III. RENEWAL FEE

Renewal of sign permit shall include among others the corresponding payment for the display surface and support structure of the sign as determined in accordance with this Section and Section 35 of this Ordinance.

IV. OTHER FEES

Sign fees paid under this Ordinance shall be without prejudice to an additional payment of electrical permit fee for signs with electrical devices as required in accordance with the provisions of the National Building Code.

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CHAPTER 14
REMOVAL OF ILLEGAL MATERIALS

SECTION 45 – REMOVAL. The City Engineer or his duly authorized representative shall remove, upon recommendation of the Building Official, the following at the expense of the displaying party:

1. Those displayed without permit from the Local Building Official, provided that the displaying party shall be given a reasonable period of sixty (60) days from receipt of the notice to comply with the sign permit requirement provided hereof;
2. Those displayed with a permit but without bearing the necessary permit marking requirement as provided in Section 39 hereof, provided that the displaying party shall be given a reasonable period of sixty (60) days from receipt of the notice to comply with the marking permit requirement provided hereof;

3. Those displayed beyond the expiry date as provided in Section 34 hereof, however, if the displaying party intends to renew such permit even beyond the period sought to be extended, the same shall be given a reasonable period of sixty (60) days from receipt of the notice to comply with the renewal requirement provided hereof without prejudice to the payment of surcharge of 25% of the total fees for such delay.
4. Those displayed in public places and/or structures as stated in section 41;
5. Those billboards, business signs, electrical signs, ground signs, projecting signs, roof signs or wall signs which are installed or constructed in violation of this Ordinance or other applicable statues and ordinances.

As early as 2003, the City Engineer of Davao City (City Engineer) started sending notices of illegal construction to various outdoor advertising businesses, including Ad & Promo Management (APM), owned by herein respondent Alex P. Montañez, that constructed the billboards in different areas within the city. The City Engineer reminded the entities to secure a sign permit or apply for a renewal for each billboard structure as required by Ordinance No. 092-2000.

In February⁴ and March 2006, the City Engineer issued orders⁵ of demolition directing erring outdoor advertising businesses, including APM, to “voluntarily dismantle” their billboards that violate Ordinance No. 092-2000 within three days from receipt of the order. Otherwise, the city government shall summarily remove these structures without further notice. In the orders of demolition dated March 17, 2006, the summary removal was scheduled on March 30, 2006 at 8:30 in the morning.

With the impending demolition of APM’s billboard structures, respondent Montañez sought recourse before the Regional Trial Court (RTC), Branch 14, Davao City on March 28, 2006 and filed a petition for injunction and declaration of nullity of Ordinance No. 092-2000 and order of demolition dated March 17, 2006 with application for a writ of preliminary injunction and temporary restraining order docketed as Sp. Civil Case No. 31,346-06.

In his petition,⁶ respondent Montañez claimed that Ordinance No. 092-2000 is unconstitutional for being overbreadth in its application, vague, and inconsistent with Presidential Decree No. 1096 or the National Building Code of the Philippines (National Building Code).

⁴ According to the Court of Appeals Decision dated June 14, 2011.

⁵ See *rollo*, pp. 194-196.

⁶ Id. at 112-128.

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In an Order⁷ dated April 17, 2006, the RTC granted respondent Montañez's application for the issuance of a writ of preliminary injunction, to wit:

WHEREFORE, conformably with the foregoing, the instant prayer for the issuance of the writ of preliminary injunction is hereby GRANTED. The respondents, namely, OIC Leoncio Evasco, Jr. of the Davao City Engineer's Office and Davao City Administrator Wendel Avisado are hereby restrained from implementing the Order of demolition dated March 17, 2006 and from actually demolishing the advertising structures of petitioner Alex P. Montañez along Bolton Bridge and Bankerohan Bridge until the main case is decided and tried on the merits or until further orders from this Court.

Meanwhile, in response to the damage caused by typhoon Milenyo in September 2006 especially to various billboard structures within Metro Manila, former President Gloria Macapagal-Arroyo (President Arroyo) issued Administrative Order (AO) No. 160⁸ directing the Department of Public Works and Highways (DPWH) to conduct nationwide field inspections, evaluations, and assessments of billboards and to abate and dismantle those: (a) posing imminent danger or threat to the life, health, safety and property of the public; (b) violating applicable laws, rules and regulations; (c) constructed within the easement of road right-of-way; and/or, (d) constructed without the necessary permits. President Arroyo also issued AO No. 160-A⁹ specifying the legal grounds and procedures in the abatement of billboards and signboards constituting public nuisance or other violations of law.

Assuming the role given by AO No. 160, Acting DPWH Secretary Hermogenes E. Ebdane, Jr. issued National Building Code Development Office (NBCDO) Memorandum Circular No. 3¹⁰ directing all local government Building Officials to cease and desist from processing application for and issuing and renewing billboard permits.

Pursuant to this directive, the city government suspended all pending applications for billboard permits.

While petitioner Montañez's case was still pending before the RTC, the city government issued another order of demolition dated September 25, 2008, this time directed against Prime Advertisements & Signs (Prime), on the ground that the latter's billboards had no sign permits and encroached a

⁷ Id. at 165-167.

⁸ Dated October 4, 2006 and entitled, "Directing The Department Of Public Works And Highways (DPWH) To Conduct Field Inspections, Evaluations And Assessments Of All Billboards And Determine Those That Are Hazardous And Pose Imminent Danger To Life, Health, Safety And Property Of The General Public And To Abate And Dismantle The Same."

⁹ Dated October 10, 2006.

¹⁰ Dated October 6, 2006, *rollo*, p. 146, Annex "3."

portion of the road right of way. The city government gave Prime until October 8, 2008 to voluntarily trim its structures. Otherwise, the same shall be removed by the city demolition team.

The directive against Prime prompted herein respondent Davao Billboards and Signmakers Association, Inc. (DABASA) to intervene¹¹ in Sp. Civil Case No. 31,346-06 in behalf of its members consisting of outdoor advertising and signmaker businesses in Davao City such as APM and Prime.

The RTC Decision

In its Decision¹² dated January 19, 2009, the RTC ruled in favor of herein respondents Montañez and DABASA, to wit:

WHEREFORE, and in view of all the foregoing, judgment is rendered declaring as void and unconstitutional the following provisions of City Ordinance No. 092-2000 as follows:

(a) Sections 7, 8 and 41

for being contrary to P.D. 1096 or the National Building Code of the Philippines.

The injunction previously issued base (sic) on the aforesaid provisions of the ordinance is hereby made permanent.¹³

Both parties moved for reconsideration. Thus, in its Joint Order dated April 1, 2009, the RTC modified its original decision, to wit:

WHEREFORE, and in view of all the foregoing, the instant motion for partial reconsideration of petitioner is GRANTED modifying the court's decision dated JANUARY 19, 2009 as follows:

(a) declaring as void and unconstitutional the following provisions of City Ordinance No. 092-2000, as follows:

aa) Sections 7, 8 and 37, for being contrary to P.D. 1096 or the National Building Code of the Philippines;

[bb] declaring herein Section 41 of City Ordinance No. 092-2000 as deleted; and

[cc] declaring the injunction previously issued by the Court based on the aforesaid provisions of the Ordinance, permanent.

¹¹ *Rollo*, pp. 129-145.

¹² *Id.* at 282-290.

¹³ *Id.* at 289-290.

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Respondents'. (sic) motion for reconsideration is DENIED.¹⁴

Aggrieved, the petitioner City Engineer sought recourse before the Court of Appeals.

The Ruling of the Court of Appeals

In its assailed Decision, the Court of Appeals denied the City Engineer's appeal, to wit:

WHEREFORE, premises foregoing, the appeal is hereby DENIED and the January 19, 2009 Decision and April 1, 2009 Joint Order of Branch 14 of the Regional Trial Court of Davao City in Civil Case No. 31,346-06 the Regional Trial Court (sic) AFFIRMED with modification.

The appealed Decision and Joint Order are affirmed insofar as it declares Section 7 and 8 of City Ordinance of Davao No. 092 series of 2002 (sic) null and void. Section 45 of the challenged Order (sic) is likewise declared null and void. We, however, reinstate Section 41 of the challenged Ordinance.¹⁵

Again, both parties moved for reconsideration. Subsequently, the Court of Appeals promulgated its Amended Decision, to wit:

WHEREFORE, premises foregoing, respondent-appellant City of Davao's Motion for Reconsideration is hereby DENIED. Petitioner-appellee's prayer for the categorical declaration of the nullity of Section 37 of the challenged Ordinance and rectification of the dispositive portion of our June 14, 2011 Decision are GRANTED. The *fallo* of said decision should now read:

“WHEREFORE, premises foregoing, the appeal is hereby DENIED and the January 19, 2009 Decision and April 1, 2009 Joint Order of Branch 14 of the Regional Trial Court of Davao City in Civil Case No. 31,346-06 **are** AFFIRMED with modification.

The appealed Decision and Joint Order are affirmed insofar as it declares Section 7, 8 **and 37** of City Ordinance of Davao No. 092 series of 2002 (sic) null and void. Section 45 of the challenged **Ordinance** is likewise declared null and void. We however, reinstate Section 41 of the challenged Ordinance.”¹⁶

Hence, the present petition.

¹⁴ Id. at 293.

¹⁵ Id. at 82.

¹⁶ Id. at 110.

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On the basis of *City of Manila v. Laguio, Jr.*,¹⁷ the appellate court held that Ordinance No. 092-2000 is not consistent with the National Building Code and, thus, invalid. It cited the following inconsistencies: *First*, Section 7 of Ordinance No. 092-2000 requires that signs and signboards must be constructed at least 10 meters away from the property line while the National Building Code allows projection of not more than 300 millimeters over alleys and roads. The Ordinance unduly interferes with proprietary rights inasmuch as it requires a larger setback distance. *Second*, Section 8 of the Ordinance regulates building and construction of signs and signboards within certain areas to preserve the natural beauty of the Davao River, Mt. Apo, the Davao City Skyline, and the view of Samal Island. Upholding *People v. Fajardo*,¹⁸ the local government cannot rely solely on aesthetics in justifying its exercise of police power. *Third*, Section 45 of the Ordinance authorizes the City Engineer, upon the Building Official's recommendation, to demolish advertising materials that have been found to be illegally constructed. In effect, the Ordinance expanded the Building Official's authority, which, under the National Building Code, was limited to determining ruinous and dangerous buildings or structures and to recommending its repair or demolition. Further, the National Building Code does not allow the demolition of signs based on a supposed lack of permit. Instead, it allows these structures to continue to operate so long as a duly accredited engineer certifies the structures' structural integrity.¹⁹

The Issues

The petitioner City Engineer now comes before this Court raising the following issues:

I

WHETHER OR NOT SECTION 7 OF SIGNAGE ORDINANCE, WHICH IS LIFTED/COPIED FROM UNCHALLENGED PROVISION OF THE IMPLEMENTING RULES AND REGULATION (SIC) OF NATIONAL BUILDING CODE OF THE PHILIPPINES, RUNS CONTRA[R]Y TO THE NATIONAL BUILDING CODE ITSELF?

II

WHETHER OR NOT THE COURT OF APPEALS ERRED IN DECLARING SECTION 8 OF SIGNAGE ORDINANCE NULL AND VOID

III

WHETHER OR NOT THE COURT OF APPEALS ERRED IN DECLARING SECTION 37 OF SIGNAGE ORDINANCE NULL AND VOID

¹⁷ 495 Phil. 289 (2005).

¹⁸ 104 Phil. 443 (1958).

¹⁹ *Rollo*, pp. 71-80.

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IV

WHETHER OR NOT THE COURT OF APPEALS ERRED IN
DECLARING SECTION 45 OF SIGNAGE ORDINANCE NULL AND VOID²⁰

The petitioner City Engineer argues that Ordinance No. 092-2000 is not inconsistent with the National Building Code as follows: as to Section 7, it cannot be held to be inconsistent with Section 1002,²¹ which is under Chapter 10, of the National Building Code because said provision applies to all building projections, in general. Signs and billboards are specifically governed by Chapter 20 thereof. As to Section 8, Section 458(a)(3)(iv)²² of Republic Act No. 7160 or the Local Government Code of the Philippines (LGC), the city government has the power to regulate the display of signs for the purpose of preserving the natural view and beauty of the surroundings. Aesthetic considerations do not constitute undue interference on property rights because it merely sets a limitation and, in fact, still allows construction of property provided it is done beyond the setback. As to Section 37, when it nullified the same, the Court of Appeals did not state the specific legal findings and bases supporting its nullity. Thus, the assailed decision violated Section 14, Article VIII²³ of the Constitution. As to Section 45, the Court of Appeals went beyond its authority when it invalidated the said Section because the parties, both petitioners and respondents, did not raise any issue as to the validity of said section. Moreover, the city engineer is mandated to act as the local building official. In turn, under the LGC, the city engineer is empowered to perform duties and functions prescribed by ordinances, such as Ordinance No. 092-2000. Thus, the city engineer has the authority to cause the removal of structures found to have violated the ordinance.

²⁰ Id. at 38-39.

²¹ SECTION 1002. *Projection into Alleys or Streets.* — (a) No part of any structure or its appendage shall project into any alley or street, national road or public highway except as provided in this Code.

(b) Footings located at least 2.40 meters below grade along national roads or public highway may project not more than 300 millimeters beyond the property line.

(c) Foundations may be permitted to encroach into public sidewalk areas to a width not exceeding 500 millimeters; provided, that the top of the said foundations is not less than 600 millimeters below the established grade; And provided, further, that said projections does not obstruct any existing utility such as power, communication, gas, water, or sewer lines, unless the owner concerned shall pay the corresponding entities for the rerouting of the parts of the affected utilities.

²² SECTION 458. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall: x x x (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: x x x (iv) Regulate the display of and fix the license fees for signs, signboards, or billboards at the place or places where the profession or business advertised thereby is, in whole or in part, conducted[.]

²³ Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

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On the other hand, herein respondents maintain that Ordinance No. 092-2000 is invalid for the following reasons: *first*, Section 7 thereof contradicts the National Building Code because while the latter does not impose a minimum setback from the property lines abutting the road right-of-way, the said provision requires a 10-meter setback. *Second*, Section 8's establishment of "regulated areas" in keeping with aesthetic purposes of the surroundings is not a valid exercise of police power. *Third*, the fees required by Section 37 of the ordinance are excessive, confiscatory, and oppressive. *Fourth*, Section 45, insofar as it empowers the building official to cause the removal of erring billboards, is an undue delegation of derivative power. Under the National Building Code, the building official's authority is limited to the determination of ruinous and dangerous buildings and structures.²⁴

The Ruling of the Court

The petition is meritorious.

We disagree with the Court of Appeals when it declared Sections 7, 8, 37, and 45 of Ordinance No. 092-2000 as unconstitutional, thus, null and void for being inconsistent with the National Building Code. However, the validity of Ordinance No. 092-2000 is being upheld for reasons different from those espoused by the petitioners.

It is settled that an ordinance's validity shall be upheld if the following requisites are present: *First*, the local government unit must possess the power to enact an ordinance covering a particular subject matter and according to the procedure prescribed by law. *Second*, the ordinance must not contravene the fundamental law of the land, or an act of the legislature, or must not be against public policy or must not be unreasonable, oppressive, partial, discriminating or in derogation of a common right.²⁵

The power to regulate billboards was validly delegated to the local city council via Davao's charter

Ordinance No. 092-2000, which regulates the construction and installation of building and other structures such as billboards within Davao City, is an exercise of police power.²⁶ It has been stressed in *Metropolitan Manila Development Authority v. Bel-Air Village Association*²⁷ that while police power is lodged primarily in the National Legislature, Congress may delegate this power to local government units. Once delegated, the agents

²⁴ Rollo, pp. 421-426.

²⁵ See *Social Justice Society (SJS) v. Atienza, Jr.*, 568 Phil. 658, 699-700 (2008); *City of Manila v. Laguio, Jr.*, supra note 17 at 307-308.

²⁶ See *Gancayco v. City Government of Quezon City*, 674 Phil. 637 (2011).

²⁷ 385 Phil. 586, 601-602.

can exercise only such legislative powers as are conferred on them by the national lawmaking body.

Republic Act No. 4354 otherwise known as the Revised Charter of the City of Davao (Davao City Charter),²⁸ enacted on June 19, 1965, **vested the local Sangguniang Panlungsod with the legislative power to regulate, prohibit, and fix license fees for the display, construction, and maintenance of billboards and similar structures.**

With the aforementioned law, Congress expressly granted the Davao City government, through the Sangguniang Panlungsod, police power to regulate billboard structures within its territorial jurisdiction.²⁹

Petitioners failed to allege the specific constitutional provision violated

The records reveal that while petitioners claim that Ordinance No. 092-2000 is unconstitutional, they have not pointed to any specific constitutional provision it allegedly violated. The settled rule is that an ordinance is presumed constitutional and valid.³⁰ This presumption may only be overcome by a showing of the ordinance's clear and unequivocal breach of the Constitution.³¹

To invalidate an ordinance based on a bare and unilateral declaration that it is unconstitutional is an affront to the wisdom not only of the legislature that passed it but also of the executive which approved it.³²

Consistency between Ordinance No. 092-2000 and the National Building Code is irrelevant

The Court of Appeals ruled that Ordinance No. 092-2000 is invalid because it contradicts the provisions of the National Building Code, *i.e.*, the Ordinance imposes additional requirements not provided in the National Building Code and even expanded the authority of the city building official in the removal of erring billboard structures.

We disagree.

As stated earlier, the power to regulate billboards within its territorial jurisdiction has been delegated by Congress to the city government via the Davao City Charter. This direct and specific grant takes precedence over

²⁸ Section 16(hh), Davao City Charter.

²⁹ See *Gancayco v. City Government of Quezon City*, supra note 26.

³⁰ See *Ferrer, Jr. v. Bautista*, 762 Phil. 233, 262 (2015); *Legaspi v. City of Cebu*, 723 Phil. 90 (2013); *Gancayco v. City Government of Quezon City*, id.

³¹ *Smart Communications, Inc. v. Municipality of Malvar, Batangas*, 727 Phil. 430, 447 (2014).

³² Id., citing *Lawyers Against Monopoly and Poverty v. Secretary of Budget and Management*, 686 Phil. 357, 373 (2012).

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requirements set forth in another law of general application,³³ in this case the National Building Code. Stated differently, the city government does not need to refer to the procedures laid down in the National Building Code to exercise this power.

Thus, the consistency between Ordinance No. 092-2000 with the National Building Code is irrelevant to the validity of the former.

To be clear, even if the National Building Code imposes minimum requirements as to the construction and regulation of billboards, **the city government may impose stricter limitations because its police power to do so originates from its charter and not from the National Building Code.** The ordinance specifically governs billboards and other similar structures situated within Davao City, independent of the provisions of the National Building Code.

Ordinance No. 092-2000 is a valid exercise of police power

An ordinance constitutes a valid exercise of police power if: (a) it has a **lawful subject** such that the interests of the public generally, as distinguished from those of a particular class, require its exercise; and (b) it uses a **lawful method** such that its implementing measures must be reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.³⁴

First, Ordinance No. 092-2000 seeks to regulate all signs and sign structures based on prescribed standards as to its location, design, size, quality of materials, construction and maintenance³⁵ to: (a) safeguard the life and property of Davao City's inhabitants; (b) keep the surroundings clean and orderly; (c) ensure public decency and good taste; and (d) preserve a harmonious aesthetic relationship of these structures as against the general surroundings.³⁶

Second, the ordinance employs the following rules in implementing its policy, *viz.*: (a) Minimum distances must be observed in installing and constructing outdoor billboards (*i.e.*, 150 meters unobstructed line of sight, 10 meters away from the property lines abutting the right-of-way);³⁷ (b)

³³ See *Philippine Long Distance Telephone Company v. Davao City*, 122 Phil. 478 (1965).

³⁴ See *Social Justice Society (SJS) v. Atienza, Jr.*, supra note 25; *Ferrer, Jr. v. Bautista*, supra note 30.

³⁵ Ordinance No. 092-2000, Section 3.

³⁶ *Id.*, Section 2 states, "STATEMENT OF POLICY. It is the policy of the City Government of Davao to: (1) safeguard its people's life and property by providing all signs and sign structures prescribed standards relative to their site, design, load and stresses, anchorage, quality of materials, construction and maintenance; (2) keep its premises clean and orderly by imposing basic discipline and regulation in the location of signs and sign structures both in public and private places; (3) display or convey only messages or visuals that conform to public decency and good taste; and (4) install or display all kinds of signs in a manner that the harmonious aesthetic relationship of all units therein is presented.

³⁷ *Id.*, Section 7.

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Additional requirements shall be observed (*i.e.*, billboards shall have a maximum total height of 17 meters, the top and bottom lines of billboards shall follow a common base)³⁸ in locations designated as “regulated areas” to preserve the natural view and beauty of the Davao River, Mt. Apo, the Davao City Skyline, and the view of Samal Island;³⁹ (c) Sign permits must be secured from and proper fees paid to the city government;⁴⁰ and (d) Billboards without permits, without the required marking signs, or otherwise violative of any provision thereof shall be removed, allowing the owner 60 days from receipt of notice to correct and address its violation.⁴¹

The Court will not be quick at invalidating an ordinance as unreasonable unless the rules imposed are so excessive as to be prohibitive, arbitrary, unreasonable, oppressive, or confiscatory.⁴² It must be remembered that the local legislative authority has a wide discretion to determine not only what the interests of the public require but also what measures are necessary for the protection of such interests.⁴³ We accord high respect to the Sanggunian’s issuance because the local council is in the best position to determine the needs of its constituents.⁴⁴

In the same vein, Ordinance No. 092-2000 reflects the wisdom of the Sangguniang Panlungsod as elected representatives of the people of Davao City. In local affairs, acts of local officials must be upheld when it is clear that these were performed squarely within the statutory authority granted to them and in the exercise of their sound discretion.⁴⁵

For the foregoing reasons, the validity of Ordinance No. 092-2000, including the provisions at issue in the present petition, *viz.*: Sections 7, 8, 37, and 45 must be upheld.

By way of an observation, We note that petitioner City Engineer issued orders of demolition that required erring outdoor advertising businesses to correct the defects of their structures within **three days from receipt of notice**. Otherwise, the billboard will be summarily removed. In said orders dated March 17, 2006⁴⁶ and September 25, 2008,⁴⁷ the summary removal operations were March 30, 2006 and October 8, 2008, respectively. These orders of demolition, however, violate Section 45 of the ordinance inasmuch as the orders do not observe the reglementary periods granted to erring billboard owners. Section 45 clearly gives the owners at least 60 days

³⁸ Id., Section 9.

³⁹ Id., Section 8.

⁴⁰ Id., Section 37.

⁴¹ Id., Section 45.

⁴² *Ferrer, Jr. v. Bautista*, supra note 30, citing *Victorias Milling Co., Inc. v. Municipality of Victorias*, 134 Phil. 180 (1968).

⁴³ *Ferrer, Jr. v. Bautista*, supra note 30.

⁴⁴ *Social Justice Society (SJS) v. Atienza, Jr.*, supra note 25.

⁴⁵ Id.

⁴⁶ *Rollo*, pp. 194-196.


⁴⁷ Id. at 146.

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to correct any defect suffered by their structures and altogether comply with the ordinance requirements.


WHEREFORE, in view of all the foregoing, the instant petition is **GRANTED**. The Decision and Amended Decision of the Court of Appeals dated June 14, 2011 and October 13, 2011, respectively, in CA-G.R. CV No. 02281-MIN are hereby **REVERSED** and **SET ASIDE**.


SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

WE CONCUR:

On official leave
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

On official leave
NOEL GIMENEZ TIJAM
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Antonio T. Carpio
ANTONIO T. CARPIO
Acting Chief Justice