

This Court resolves the Petition for Review² assailing the Court of Appeals Decision,³ which affirmed the Regional Trial Court Decision⁴ denying the Petition for Injunction filed by Bagong Repormang Samahan ng mga Tsuper at Operator sa Rotang Pasig Quiapo via Palengke San Joaquin Ikot, Inc. (Bagong Repormang Samahan) against the City of Mandaluyong.

In filing the Petition for Injunction with prayer for a temporary restraining order and writ of preliminary injunction, Bagong Repormang Samahan sought to enforce its members' rightful passage through the road under the Shaw Boulevard-EDSA flyover, and to enjoin the City of Mandaluyong from violating that right.⁵ It hinged this right based on its members' certificates of public convenience to ply along this route:⁶

Pasig (TP) – Quiapo (Echague) via Sta. Mesa, C. Palanca

Pasig TP terminal, Caruncho Ave., Pasig Blvd., Shaw Blvd., P. Sanchez, V. Mapa, Ramon Magsaysay, Legarda, P. Casal, Palanca to terminal and back via Quezon Blvd., Service Rd., C.M. Recto, Legarda to origin via same route.⁷ (Citation omitted)

Allegedly, the group's drivers were prohibited from passing under the Shaw Boulevard-EDSA flyover where they would usually load and unload passengers. It added that the city's traffic enforcers would harass its members by issuing several ordinance violation receipts for "obstruction," "no seat belt," "disobedience," and "out of route."⁸ Yet, the group claimed, no ordinance expressly prohibited them from passing under the flyover; thus, the prohibition violated their certificates of public convenience.⁹

For its part, the City of Mandaluyong invoked Ordinance No. 358, Series of 2005, or the City's Traffic Management Code. Under the Ordinance, it noted, the Traffic and Parking Management Office is authorized to adjust the turning points and terminals of public utility buses and jeepneys.¹⁰ Jeepneys and buses are prohibited from loading and

² *Rollo*, pp. 15-34.

³ *Id.* at 36-51. The Decision was penned by Associate Justice Victoria Isabel A. Paredes, and concurred in by Associate Justice Isaias S. Dicdican and Associate Justice Melchor Quirino C. Sadang of the Special Ninth Division, Court of Appeals, Manila.

⁴ *Id.* at 86-112. The Decision was penned by Judge Carlos A. Valenzuela, Presiding Judge of the Regional Trial Court of Mandaluyong City, Branch 213.

⁵ *Id.* at 88.

⁶ *Id.* at 37.

⁷ *Id.*

⁸ *Id.* at 38.

⁹ *Id.*

¹⁰ SECTION 113 ROUTES OF PUBLIC UTILITY BUSES AND JEEPNEYS. Public utility buses and jeepneys, including mega-taxis and shuttle vans with valid authorizations from the Land Transportation Franchising and Regulatory Board and whose routes terminate or originate within the City shall furnish the Traffic and Parking Management Office a copy of their approved routes. Subject transport groups shall adhere to their approved routes.

Without necessarily modifying their authorized routes, the Traffic and Parking Management Office may adjust the turning points and terminal of public utility buses and jeepneys, prescribe their loading or unloading points, and/or require them to utilize passenger interchange terminals, if so required by an approved traffic improvement scheme.

unloading along the Shaw Boulevard-EDSA crossing area because of traffic congestion.¹¹

On August 10, 2009, the Regional Trial Court denied the application for temporary restraining order. On January 4, 2010, it also denied the writ of preliminary injunction.¹²

On December 28, 2012, the Regional Trial Court issued its Decision¹³ denying the Petition for Injunction:

WHEREFORE, premises considered, the prayer for injunction of petitioner, the Bagong Reformang Samahan ng mga Tsuper at Operator sa Rotang Pasig Quiapo via Palengke San Joaquin Ikot, Inc., represented by its President Cornelio R. Sadsad, Jr., is hereby DENIED.

SO ORDERED.¹⁴

In denying the main action for injunction, the Regional Trial Court found that Bagong Repormang Samahan failed to show its members' clear legal right to ply the road under the flyover.¹⁵ It upheld the Traffic Management Code as a valid exercise of the City of Mandaluyong's power to maintain and promote order in its locality. It noted that injury would redound to the general public if the unauthorized loading and unloading were allowed.¹⁶

The Court of Appeals, in its May 26, 2015 Decision,¹⁷ denied the group's appeal. It held that the City of Mandaluyong is vested with delegated legislative power to enact traffic rules under Section 458, in relation to Section 16, of the Local Government Code. It found that the prohibition against plying under the Shaw Boulevard-EDSA flyover did not violate the drivers' certificates of public convenience, but was a valid exercise of the City of Mandaluyong's power to address traffic congestion.¹⁸

Thus, Bagong Repormang Samahan filed this Petition for Review.¹⁹

On September 2, 2016, respondents filed their Comment.²⁰ On May 4,

Available at <<http://mandaluyong.gov.ph/updates/downloads/files/Ordinance%20358%20-%20Traffic%20Management.pdf>> (last accessed on June 15, 2020).

¹¹ *Rollo*, p. 39.

¹² *Id.* at 90.

¹³ *Id.* at 86-112.

¹⁴ *Id.* at 112.

¹⁵ *Id.* at 91.

¹⁶ *Id.* at 108-109.

¹⁷ *Id.* at 36-51.

¹⁸ *Id.* at 36-51.

¹⁹ *Id.* at 42-44.

²⁰ *Id.* at 140-147.

2017, petitioner filed its Reply.²¹

In a February 4, 2018 Letter, petitioner's president Cornelio R. Sadsad, Jr. (Sadsad) notified this Court of the administrative cases he has filed before the Land Transportation Office, the Land Transportation Franchise and Regulatory Board, and the Office of the Ombudsman.²²

The Land Transportation Franchise and Regulatory Board had earlier found that UV Express vehicles and passenger jeepneys were guilty of having illegal terminals, thus ordering that certain vehicles be impounded.²³ In another case, the Land Transportation Office had directed Ricardo V. Zafra, the chief of the SMVIC of Pasay City, to "exert extra effort and formulate action plans" on the illegal transactions in his area of responsibility.²⁴ Lastly, the Office of the Ombudsman dismissed the case Sadsad filed against Hearing Officer Atty. Lucia V. Oliveros, who had ruled against his complaint for selective apprehension against a traffic enforcer.²⁵

Incidentally, petitioner also notified this Court that he has impugned former President Fidel V. Ramos,²⁶ former President Benigno Simeon Aquino III,²⁷ and President Rodrigo Duterte,²⁸ all of whom he essentially claimed are liable for the plight of the jeepney drivers.

In another letter, Sadsad manifested that the illegal operations of UV Express vehicles were killing the jeepney drivers' livelihood.²⁹ He later requested that a case be filed against government agencies who continue to allow the illegal operations of UV Express.³⁰

Petitioner filed its Memorandum³¹ on May 15, 2019, while the respondents filed theirs³² on April 3, 2019.

Petitioner implores this Court to review the factual findings of the Court of Appeals because its judgment was based on a misapprehension of facts.³³ It argues that the injunction should have been issued in its favor because its members, through their certificates of public convenience, have an unmistakable right to pass under the Shaw Boulevard-EDSA flyover.³⁴ It

²¹ Id. at 161-167.

²² Id. at 199.

²³ Id. at 274.

²⁴ Id. at 203.

²⁵ Id. at 266-268.

²⁶ Id. at 330.

²⁷ Id. at 304-325.

²⁸ Id. at 344.

²⁹ Id. at 331-332.

³⁰ Id. at 338-339.

³¹ Id. at 407-418.

³² Id. at 370-396.

³³ Id. at 21-22.

³⁴ Id. at 24.

asserts that respondent violated the members' legal right when they were prevented from passage and were issued with ordinance violation receipts³⁵ despite no express prohibition.³⁶

Respondents counter that the City of Mandaluyong has power to regulate traffic under the Shaw Boulevard-EDSA flyover.³⁷ They allege that petitioner failed to consider the City Traffic Management Code, which tasks the Traffic and Parking Management Office with adjusting the turning points of public utility vehicles without modification of their routes.³⁸ They further note that only public utility vehicles with legal terminals along the Shaw Boulevard-EDSA crossing area are exempted from the prohibition, and since petitioner does not have such terminal, its members have been prohibited from passing under the flyover since 2000.³⁹

The main issue here is whether or not the main action for injunction should have been granted. Subsumed under it are two issues:

First, whether or not the member-drivers, through their certificates of public convenience, have a clear legal right to ply through the road under the Shaw Boulevard-EDSA flyover; and

Second, whether or not respondent City of Mandaluyong violated this right, if any.

The Petition lacks merit.

I

This Court is not a trier of facts. Generally, only questions of law can be raised in a petition for review on certiorari under Rule 45⁴⁰ of the Rules of Court. The limited exceptions to this rule are as follows:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) *When the judgment is based on a misapprehension of facts*; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of

³⁵ Id. at 25.

³⁶ Id. at 25-27.

³⁷ Id. at 143.

³⁸ Id. at 142-143.

³⁹ Id. at 143.

⁴⁰ RULES OF COURT, Rule 45, sec. 1.

specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.⁴¹ (Emphasis supplied, citation omitted)

To successfully invoke these exceptions, the petitioner must prove the need for this Court to examine the lower court's factual findings.⁴² Merely invoking an exception without proof will not warrant an examination beyond the limits of Rule 45.⁴³

Here, petitioner alleges that the Court of Appeals Decision was based on a misapprehension of facts,⁴⁴ but fails to demonstrate how. On the contrary, as will be discussed, the Court of Appeals' findings are supported by the evidence on record, applicable laws, and jurisprudence.

II

Petitioner seeks the writ of injunction against respondent City of Mandaluyong for allegedly violating their legal right. Rule 58, Section 9 of the Rules of Court states when a final injunction may be issued:

SECTION 9. When Final Injunction Granted. — If after the trial of the action it appears that the applicant is entitled to have the act or acts complained of permanently enjoined, the court shall grant a final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts or confirming the preliminary mandatory injunction. (10a)

As explained in *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*,⁴⁵ an injunction can either be a main action or a provisional remedy:

Injunction is defined as "a judicial writ, process or proceeding whereby a party is ordered to do or refrain from doing a certain act." It may be filed as a main action before the trial court or as a provisional remedy in the main action. *Bacolod City Water District v. Hon. Labayen* expounded:

The main action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding. As a matter of course, in

⁴¹ *Pascual v. Burgos*, 776 Phil 167, 182–183 (2016) [Per J. Leonen, Second Division].

⁴² *Id.* at 184 citing *Borlongan v. Madrideo*, 380 Phil. 215, 223 (2000) [Per J. De Leon, Jr., Second Division].

⁴³ *Id.*

⁴⁴ *Rollo*, p. 22.

⁴⁵ 820 Phil. 123 (2017) [Per J. Leonen, Third Division].

an action for injunction, the auxiliary remedy of preliminary injunction, whether prohibitory or mandatory, may issue. Under the law, the main action for injunction seeks a judgment embodying a final injunction which is distinct from, and should not be confused with, the provisional remedy of preliminary injunction, the sole object of which is to preserve the *status quo* until the merits can be heard. A preliminary injunction is granted at any stage of an action or proceeding prior to the judgment or final order. It persists until it is dissolved or until the termination of the action without the court issuing a final injunction.⁴⁶

For a main action for injunction to succeed, two requisites must be established: “(1) there must be a right to be protected and (2) the acts against which the injunction is to be directed are violative of said right.”⁴⁷

II (A)

In this case, petitioner derives its legal right from the certificates of public convenience that the Land Transportation Franchise and Regulation Board had issued its members. Supposedly, since Shaw Boulevard was included in the route authorized in the certificates, petitioner’s members cannot be prohibited from plying the road under the Shaw Boulevard-EDSA flyover without modifying, amending, or canceling these certificates.⁴⁸

Petitioner’s argument has no basis.

Among the powers of the Land Transportation Franchising and Regulatory Board is to issue certificates of public convenience:

SECTION 5. Powers and Functions of the Land Transportation Franchising and Regulatory Board. — The Board shall have the following powers and functions:

- b. To issue, amend, revise, suspend or cancel Certificates of Public Convenience or permits authorizing the operation of public land transportation services provided by motorized vehicles, and to prescribe the appropriate terms and conditions therefor[.]⁴⁹

A certificate of public convenience is a permit authorizing operations

⁴⁶ Id. at 131–132 citing *Bacolod City Water District v. Hon. Labayen*, 487 Phil. 335, 346 (2004) [Per J. Puno, Second Division].

⁴⁷ *Republic of the Philippines v. Cortez, Sr.*, 768 Phil. 575, 589 (2015) [Per J. Del Castillo, Second Division] citing *Philippine Economic Zone Authority v. Carantes*, 635 Phil. 541, 548 (2010) [Per J. Villarama, Third Division].

⁴⁸ *Rollo*, pp. 24–25.

⁴⁹ Executive Order No. 202 (1987), sec. 5(b).

of land transportation services for public use.⁵⁰ Before the creation of the Land Transportation Franchising and Regulatory Board, these permits were issued by the Public Service Commission under Section 16(a) of Commonwealth Act No. 146.⁵¹

It is settled that a certificate of public convenience is a mere license or privilege. It does not vest property rights on the routes covered in it:

Petitioner's argument pales on the face of the fact that the very nature of a certificate of public convenience is at cross purposes with the concept of vested rights. To this day, the accepted view, at least insofar as the State is concerned, is that "*a certificate of public convenience constitutes neither a franchise nor a contract, confers no property right, and is a mere license or privilege.*" *The holder of such certificate does not acquire a property right in the route covered thereby.* Nor does it confer upon the holder any proprietary right or interest or franchise in the public highways. Revocation of this certificate deprives him of no vested right. Little reflection is necessary to show that the certificate of public convenience is granted with so many strings attached. New and additional burdens, alteration of the certificate, and even revocation or annulment thereof is reserved to the State.

We need but add that the Public Service Commission, a government agency vested by law with "jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties" is empowered, upon proper notice and hearing, amongst others: (1) "[t]o amend, modify or revoke at any time a certificate issued under the provisions of this Act [Commonwealth Act 146, as amended], whenever the facts and circumstances on the strength of which said certificate was issued have been misrepresented or materially changed"; and (2) "[t]o suspend or revoke any certificate issued under the provisions of this Act whenever the holder thereof has violated or willfully and contumaciously refused to comply with any order, rule or regulation of the Commission or any provision of this Act: Provided, That the Commission, for good cause, may prior to the hearing suspend for a period not to exceed thirty days any certificate or the exercise of any right or authority issued or granted under this Act by order of the Commission, whenever such step shall in the judgment of the Commission be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests. Jurisprudence echoes the rule that the Commission is authorized

⁵⁰ *Kilusang Mayo Uno Labor Center v. Garcia*, 309 Phil. 358, 380 (1994) [Per J. Kapunan, First Division].

⁵¹ Commonwealth Act No. 146 (1936), sec. 16(a) provides:

SECTION 16. Proceedings of the Commission, Upon Notice and Hearing. — The Commission shall have power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

(a) To issue certificates which shall be known as Certificates of Public Convenience, authorizing the operation of public services within the Philippines whenever the Commission finds that the operation of the public service proposed and the authorization to do business will promote the public interests in a proper and suitable manner: Provided, That hereafter, certificates of public convenience and certificates of public convenience and necessity will be granted only to citizens of the Philippines or of the United States or to corporations, copartnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines: Provided, That sixty per centum of the stock or paid-up capital of any such corporation, copartnership, association or joint stock company must belong entirely to citizens of the Philippines or of the United States: Provided, further, That no such certificates shall be issued for a period of more than fifty years.

to make reasonable rules and regulations for the operation of public services and to enforce them. In reality, all certificates of public convenience issued are subject to the condition that all public services "shall observe and comply [with] . . . all the rules and regulations of the Commission relative to" the service. To further emphasize the control imposed on public services, before any public service can "adopt, maintain, or apply practices or measures, rules, or regulations to which the public shall be subject in its relation with the public service," the Commission's approval must first be had.

And more. *Public services must also reckon with provincial resolutions and municipal ordinances relating to the operation of public utilities within the province or municipality concerned.* The Commission can require compliance with these provincial resolutions or municipal ordinances.⁵² (Emphasis supplied)

As early as 1966, *Lagman v. City of Manila*⁵³ clarified that the authority to issue certificates of public convenience does not remove a local government's power to regulate traffic in its locality. A grantee is still required to comply with national laws and municipal ordinances:

That the powers conferred by law upon the Public Service Commission were not designated to deny or supersede the regulatory power of local governments over motor traffic, in the streets subject to their control, is made evident by section 17 (j) of the Public Service Act (Commonwealth Act No. 146) that provides as follows:

SEC. 17. Proceedings of Commission without previous hearing. — The Commission shall have power, without previous hearing, subject to established limitations and exceptions, and saving provisions to the contrary:

....

(j) To require any public service to comply with the laws of the Philippines, and with any provincial resolution or municipal ordinance relating thereto, and to conform to the duties imposed upon it thereby, or by the provisions of its own charter, whether obtained under any general or special law of the Philippines.

The petitioner's contention that, under this section, the respective ordinances of the City can only be enforced by the Commission alone is obviously unsound. Subsection (j) refers not only to ordinances but also to "the laws of the Philippines", and it is plainly absurd to assume that even laws relating to public services are to remain a dead letter without the *placet* of the Commission; and the section makes no distinction whatever between enforcement of laws and that of municipal ordinances.

The very fact, furthermore, that the Commission is empowered, but not required, to demand compliance with apposite laws and ordinances proves that the Commission's powers are merely supplementary to those

⁵² *Luque v. Villegas*, 141 Phil. 108, 119-121 (1969) [Per J. Sanchez, En Banc].

⁵³ 123 Phil. 1439 (1966) [Per J. J.B.L. Reyes, En Banc].

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of state organs, such as the police, upon which the enforcement of laws primarily rests.⁵⁴ (Emphasis supplied)

Here, it is not disputed that the route in the certificates of public convenience granted to the drivers includes Shaw Boulevard. However, petitioner is mistaken to claim that these certificates give the drivers vested right over the route covered. One of the conditions for public utility jeepneys to operate along such routes is compliance with local government regulations, as clearly stated in the certificates of public convenience:

The operator must also comply with all the terms and conditions prescribed in Commonwealth Act [No.] 146, as amended, Executive Order [No.] 202, and other laws and, all pertinent Orders and Memorandum Circulars of the Board and Resolutions of Local Government unit/s in so far as they are applicable.⁵⁵

Neither does petitioner's previous practice of using the road under the Shaw Boulevard-EDSA flyover⁵⁶ give its members the unfettered right to pass along this road. One of the members admitted that, since the construction of the flyover in 2001, they have been prohibited from using the road under it, and have been directed to use the flyover:

ATTY. TUTANES [counsel for respondents]:

Q - And when the flyover was constructed, Mr. Witness, were you prevented since the start of the operation of the flyover from using the under Shaw Boulevard flyover?

A - Yes, sir, when it was constructed it was then that we were prohibited from passing under the flyover, sir.

Q - And Mr. Witness when you were prevented from using the [road] under Shaw Boulevard flyover did you raise any objection?

A - Yes, sir, we complained before the MMDA, we were pointed to go to the local government sir and then the local government told us that it is the jurisdiction of the LTFRB, sir.

Q - So since 2004 you were already prevented from using [the road] under Shaw Boulevard flyover?

A - Since 2001, sir, we were no longer allowed to pass under the flyover.⁵⁷

Petitioner, therefore, failed to establish its members' clear legal right to pass under the Shaw Boulevard-EDSA flyover.

⁵⁴ Id. at 1448-1449.

⁵⁵ *Rollo*, p. 243.

⁵⁶ Id. at 17.

⁵⁷ Id. at 109-110.

II (B)

Local governments possess delegated legislative power to regulate traffic. Section 458 of the Local Government Code states:

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:

....

(5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities shall:

....

(v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places and approve the construction, improvement, repair and maintenance of the same; establish bus and vehicle stops and terminals or regulate the use of the same by privately-owned vehicles which serve the public; regulate garages and the operation of conveyances for hire; designate stands to be occupied by public vehicles when not in use; regulate the putting up of signs, signposts, awnings and awning posts on the streets; and provide for the lighting, cleaning and sprinkling of streets; and public places;

(vi) Regulate traffic on all streets and bridges; prohibit encroachments or obstacles thereon, and when necessary in the interest of public welfare, authorize the removal or encroachments and illegal constructions in public places(.

In *Legaspi v. City of Cebu*,⁵⁸ this Court emphasized that local governments are given broad latitude in crafting traffic rules and regulations because they are familiar with the conditions of their localities:

The CA opined, and correctly so, that vesting cities like the City of Cebu with the legislative power to enact traffic rules and regulations was expressly done through Section 458 of the LGC, and also generally by virtue of the General Welfare Clause embodied in Section 16 of the LGC.

....

The foregoing delegation reflected the desire of Congress to leave to the cities themselves the task of confronting the problem of traffic

⁵⁸ 723 Phil. 90 (2013) [Per J. Bersamin, En Banc].

congestions associated with development and progress because they were directly familiar with the situations in their respective jurisdictions. *Indeed, the LGUs would be in the best position to craft their traffic codes because of their familiarity with the conditions peculiar to their communities.* With the broad latitude in this regard allowed to the LGUs of the cities, their traffic regulations must be held valid and effective unless they infringed the constitutional limitations and statutory safeguards.⁵⁹ (Emphasis supplied, citation omitted)

Section 458 anchors itself on the delegated police power provided in the general welfare clause of the Local Government Code.⁶⁰ Section 16 of the Code provides:

SECTION 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. (Emphasis supplied)

It is settled that restrictions brought about by regulations of local governments addressing traffic congestion are valid exercises of police power:

It is because of all of these that it has become necessary for the police power of the State to step in, not for the benefit of the few, but for the benefit of the many. Reasonable restrictions have to be provided for the use of the thoroughfares. The operation of public services may be subjected to restraints and burdens, in order to secure the general comfort. No franchise or right can be availed of to defeat the proper exercise of police power—the authority “to enact rules and regulations for the promotion of the general welfare.” So it is, that by the exercise of the police power, which is a continuing one, “a business lawful today may in the future, because of the changed situation, the growth of population or other causes, become a menace to the public health and welfare, and be required to yield to the public good.” Public welfare, we have said, lies at the bottom of any regulatory measure designed “to relieve congestion of traffic, which is, to say the least, a menace to public safety.” *As a corollary, measures calculated to promote the safety and convenience of the people using the thoroughfares by the regulation of vehicular traffic, present a proper subject for the exercise of police power.*⁶¹ (Emphasis supplied, citations omitted)

⁵⁹ Id. at 105–106.

⁶⁰ *Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544, 561 (2004) [Per J. Sandoval-Gutierrez, En Banc] citing *United States v. Salaveria*, 39 Phil. 102 (1918) [Per J. Malcolm, En Banc].

⁶¹ *Luque v. Villegas*, 141 Phil. 108, 123–124 (1969) [Per J. Sanchez, En Banc].

Pursuant to the Local Government Code, in 2005, respondent City of Mandaluyong enacted Ordinance No. 358, or the Traffic Management Code of the City of Mandaluyong.

In this case, petitioner does not assail the validity of the Ordinance. What it contends is its lack of express prohibition that prevents its member-drivers from passing under the Shaw Boulevard-EDSA flyover.

A simple reading of the provision belies their contention. Section 113 of the Traffic Management Code clearly states that the Traffic and Parking Management Office is authorized to regulate the turning points of public utility buses and jeepneys:

SECTION 113 ROUTES OF PUBLIC UTILITY BUSES AND JEEPNEYS. Public utility buses and jeepneys, including mega-taxis and shuttle vans with valid authorizations from the Land Transportation Franchising and Regulatory Board and whose routes terminate or originate within the City shall furnish the Traffic and Parking Management Office a copy of their approved routes. Subject transport groups shall adhere to their approved routes.

Without necessarily modifying their authorized routes, the Traffic and Parking Management Office may adjust the turning points and terminal of public utility buses and jeepneys, prescribe their loading or unloading points, and/or require them to utilize passenger interchange terminals, if so required by an approved traffic improvement scheme.

It is clear, therefore, that the regulation does not violate the certificates of public convenience of petitioner's members. It is a valid exercise of respondent City of Mandaluyong's power under the Local Government Code to address traffic congestion under the Shaw Boulevard-EDSA flyover. Thus, the second requisite for a final injunction—that there had been a violation of a right—is also absent in this case.

III

Appendix V of the City Traffic Management Code does not include the road under the Shaw Boulevard-EDSA flyover in the list of loading and unloading zones. Thus, loading and unloading of passengers in that road is not allowed: ℓ

APPENDIX V

LOADING AND UNLOADING ZONES

- a. Between Stanford St. and Princeton St.

- b. East bound ten (10) meters from Samat St.
- c. West Bound ten (10) meters from Princeton St.
- d. Between Governor's Palace Condominium and PNB Building
- e. In front of Facilities Center
- f. In front of Up-T/own Building before Wack-Wack Road
- g. In front of Cherry Foodarama
- h. In from of Sunshine Square
- i. West bound lane ten (10) meters before Laurel St.
- j. In front of Toyota Motors Corporation Buidling
- k. East bound lane ten (10) meters before Rodriguez St.
- l. East bound land twenty (20) meters after Nueve de Pebrero St.
- m. Between Balagtas St. and Gomezville St.
- n. Between Acacia Lane and Maligaya Creek 3
- o. West bound land ten (10) meter[s] before Guerrero St.
- p. Between A. Bonifacio St. and R. Vicencio St.
- q. West bound lane ten (10) meters after Araullo St.
- r. Between Araullo St. and L. Cruz St.
- s. West bound lane ten (10) meters after J. Vargas St.
- t. Between Aimologo Industries and Solid Bank
- u. East bound lane ten (10) meters from A. Luna Extension
- v. In front of Jose Rizal College
- w. West bound lane ten (10) meters after the pedestrian lane in front of JRC
- x. Across Tiosejo St.⁶²

The Ordinance provides an exemption for public utility vehicles that have terminals in the EDSA-Shaw Boulevard crossing area along Star Mall and Parklea.⁶³ However, petitioner does not claim that its members fall under this exemption.

Petitioner decries that due to the prohibition, its members' incomes are reduced by at least ₱500.00 daily. In doing so, they admit that they load and unload passengers even in the no-loading and unloading zones. As the Court of Appeals observed, instead of owning up to the multiple violations of the Traffic Management Code, petitioner passes the liability to passengers who get on and off their vehicles in unauthorized areas:

Further, petitioner-appellant admitted that its members cannot load and/or unload passengers under the Shaw Boulevard-EDSA flyover. Based on Appendix V of the Traffic Code, which enumerates the loading and unloading zones in the city, members of petitioner-appellant cannot load and/or unload passengers under the Shaw Boulevard-EDSA flyover since the said area is not included in the loading and unloading zone list. *Nonetheless, on the pretext that it is the riding public, not the jeepney drivers-members of petitioner-appellant, who ride on and alight from the jeepneys, there has been an unbridled violation, albeit it is admitted that members of petitioner-appellant derive income from violating the no loading-unloading zone in the prohibited area under the Shaw Boulevard-EDSA flyover.* When the local government unit, through its Traffic Enforcement Division, strictly implemented the prohibition and the no

⁶² Rollo, pp. 45-46, see footnote 23.

⁶³ Id. at 143.

loading-unloading zone to enforce discipline, it was only then that petitioner-appellant, confronted with the loss of its income, cried foul and filed the petition for injunction. This is evident from the testimony of Sadsad on cross-examination, viz:

ATTY. FERRER (counsel for respondents-appellees):]

Q: What is the source of the damage when you said you incurred Five Hundred Pesos a day for not using...

COURT:

Or for having been prevented from passing through below that flyover EDSA Shaw Boulevard?

A: Dahil nga po kami padaanin sa flyover...

Q: Precisely, how, how did you quantify that? Na 500 ang nawala sayo apat na beses mong bumibiyaha dahil hindi kayo pinayagan.

A: Dahil nga po sa kawalan ng pasahero nakukuha namin...

ATTY. FERRER[:]

Q: You just mentioned that you lost income in the amount of P500 at least because you are no longer allowed to get passengers but Mr. Witness, you testified a while ago that there is no jeepney stop and you are not allowed to get passengers so how will that affect your income?

A: Ang problema po namin nga ay hindi kami padaanin pero itong mga illegal operation na ito ay pinapayagan nila sila nakakapagsakay ng mga pasahero...

ATTY. FERRER[:]

The answer of the witness your honor is not responsive.

He further testified, that:

ATTY. TUTANES[:]

Q: Under the Shaw Boulevard Flyover, Mr. Witness, where do you load passengers?

A: Sumasakay lang po ang pasahero pag naka-stop light.

COURT:

Eastbound, Atty. Tutanes?

ATTY. TUTANES[:]

Yes, your Honor.

A: Kapag po nakahinto naka-red yung traffic light saka lang po sila sumasakay.

Q: My question is where do you load passengers?

COURT:

Load and unload

ATTY. TUTANES[:]

Load muna, your honor.

A: Kung (kailan) lang po mag-stop yung traffic light.

Q: So you are admitting to this honorable court that you are loading passenger[s] under Shaw Boulevard Flyover?

A: Dahil ang pasahero na po talaga nag nagdedesisyon na sumakay sa amin.

ATTY. TUTANES:

No, your honor...

COURT:

Answer the question. Answer that, yes or no.

A: Sumasakay po ang pasahero.

Q: So you don't? Pinasasakay mo?

A: Opo, sumasakay po.

ATTY. REDULA (counsel for petitioner-appellant)[:]

No, you[r] honor. The answer is sumasakay po. The passenger just...

COURT:

That's why I am qualifying it.

ATTY. REDULA:

Yes, your honor.

COURT:

Q: So pinasasakay mo o sumasakay sila?

A: Sumasakay po ang pasahero.

ATTY. TUTANES[:]

Q: How about unloading, where do you unload under Shaw Boulevard Flyover?

A: Basta nalang po nababa ang pasahero pag naka-stop ang traffic light.

ATTY. REDULA:

They just alight from the vehicle.

ATTY. TUTANES:

Q: How about after EDSA, Mr. Witness, after EDSA, eastbound after EDSA, do you load passengers after EDSA?

A: After St. Francis.

....

Q: When you are passing over Shaw Boulevard Flyover, will you tell this court what is your income?

A: One thousand including the boundary.

Q: How about if you are passing through under Shaw Boulevard Flyover, Mr. Witness?

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A: Nadadagdagan po dahil maraming sumasakay sa amin pag dumadaan kami sa ilalim.⁶⁴ (Emphasis supplied, citations omitted)

While we empathize with its members' plight, petitioner does not have the absolute right to conduct its business along the route granted to its members. Its members' decreased income is not sufficient to grant the remedy of injunction, as respondent committed no violation of any right which this Court may enjoin.

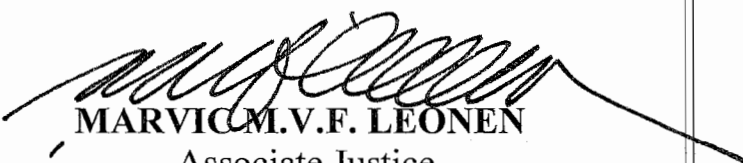
Finally, petitioner submitted several letters containing records of administrative cases. In all of these, the issue of the illegal operations of UV Express vehicles allegedly killing their livelihood was repeatedly raised. Petitioner manifested that this issue and the resolution of the administrative agencies on the cases will help this Court in resolving the Petition.

This Court cannot grant this manifestation. The Petition here assails the denial of petitioner's Petition for Injunction against respondent City of Mandaluyong. While petitioner has a right to petition the government for redress of its grievances, what is at issue here is whether petitioner's members have a clear legal right that may have been violated.

As the issue of illegal operations of UV Express vehicles was not raised in the Petition, this Court cannot use it to resolve the issues raised in the Petition. After a full-blown trial on the merits, the trial court was not satisfied that the two requisites for injunction exist. The Court of Appeals affirmed this decision. This Court finds no reason to reverse these findings.


WHEREFORE, the Petition is **DENIED** for lack of merit. The May 26, 2015 Decision of the Court of Appeals in CA-G.R. CV No. 100496 is **AFFIRMED**.

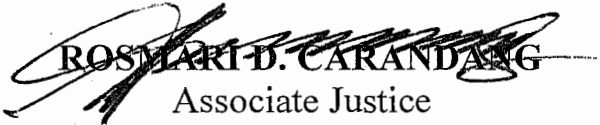
SO ORDERED.

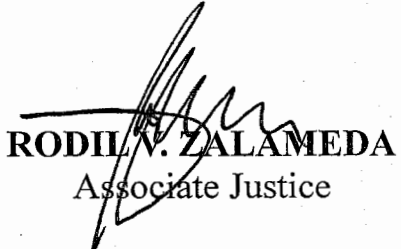

MARVIC M. V. F. LEONEN
Associate Justice

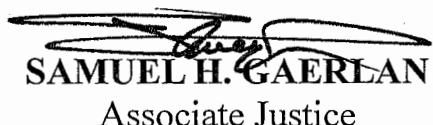
⁶⁴ Id. at 46-50.

WE CONCUR:


ALEXANDER G. GESMUNDO
 Associate Justice

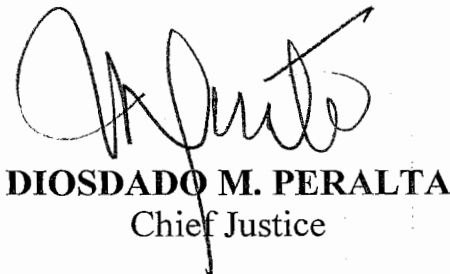

ROSMARID D. CARANDANG
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice



SAMUEL H. GAERLAN
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.


DIOSDADO M. PERALTA
 Chief Justice

CERTIFIED TRUE COPY


MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court
 Third Division

NOV 26 2020