

Extracting the Tiger's Tooth: *Metropolitan Manila Development Authority v. Garin*

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I. INTRODUCTION

Indeed, it is stressed that contention lies at the heart of seeking legitimation.¹

Inextricably intertwined in the exercise of power is the continuous jostling for the legitimacy of its application. In a country where government power emanates from the people,² democracy serves as an enticing platform for exploitation. The interaction in such a setting is more prominent, there being duties, rights and privileges, which are foremost prone to abuse by both the authorities and the individuals exercising them. Amalgams of these exercises involving power come to blows in their daily interplay.

The determination alone of one's endowment with such benefit is a common question, which in most instances cannot be settled immediately. In fact, it eventually becomes a good resource for cases. Often, the common denominator boils down to a question of how a certain power wielded by an

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1. ROBERT BALDWIN, *RULES AND GOVERNMENT* 300 (1995).
2. PHIL. CONST. art. 2, § 1 (The provision that sovereignty resides in the people also provides that all governmental authority shall emanate from them.).

authority may be applicable in an instant dispute, and how the resolution of which would eventually be affected.

The mandate of an authority would naturally be a consequence of the purpose it purports to serve. So as to avoid leaving an abundance of discretion to some individuals, a higher governing body would normally influence the degree of control in various forms, all of which materially focusing on the aspect wherein the subordinate body is to gain ground. Primarily, a distinctively clear delineation of rules is deliberated upon by the legislature before finally breathing life into the created authority. All the instances foreseen, ranging from serious concerns to the minute tribulations, are carefully considered and given due attention as required. The great detail in constructing the right cloak of power to suit particular requirements is cautiously worded to attain precision and accuracy.

The highly specialized needs of the various sectors of the society correspondingly brings about a severe want of an equally specialized or specified response. This, if not the major factor in determination, is of vital importance that the carefully crafted Constitution has consciously been wary of the principle of non-delegability of legislative power. Over time, it has been stressed that what must be delegated is not law-making, but law-execution. Requirements of completeness and sufficiency of standards must first be satisfied, for the regulations passed by an administrative body pursuant to the delegation are just as binding, as if written in the original statute itself. If the requirements are not satisfied, the regulation will not be allowed to affect private rights.³

An administrative body, the Metropolitan Manila Development Authority (MMDA) was thus created as a response to the needs of the growing complexity of a modern society, particularly the interconnected cities of Metropolitan Manila. Various social activities and their ramifications necessitated the creation of the MMDA, and the delegation of power granted it in the particular fields allows it to deal with the problems thereof with more expertise.⁴ The vast coverage of the MMDA's authority is deemed to be all-encompassing as evidenced by its enabling law, but this Comment argues that there are more than enough legal bases for the delimitation of the MMDA's authority. This Comment will proceed first with a discussion of the case of Metropolitan Manila Development Authority v. Garin,⁵ followed by a discussion on the legal history of the MMDA, and

3. JOAQUIN G. BERNAS, *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 664-65 (2003).

4. *Id.* at 665.

5. *Metropolitan Manila Development Authority v. Garin*, G.R. No. 130230, Apr. 15, 2005.

then an analysis of the limitations of its powers and authority as held in the instant case by juxtaposition with a case precedent involving the same body and a consolidation of the decisions rendered.

II. THE CASE OF *METROPOLITAN MANILA DEVELOPMENT AUTHORITY v. GARIN*

A. *Facts of the Case*

The case of *MMDA v. Garin* ensued when the respondent, a lawyer by profession, was issued a traffic violation receipt and his driver's license confiscated for illegal parking. According to the receipt, he was to report to the MMDA traffic operations center after 48 hours from the date of apprehension for proper action thereon, and that failure to redeem license within 30 days will cause the commencement of a criminal case. The receipt would then serve as a temporary license for seven days from the date of apprehension. Before the seven-day period expired, the respondent addressed a letter to the MMDA Chairman requesting the return of his driver's license and expressing his preference for his case to be filed in court.⁶

A complaint was then filed by the respondent with an application for preliminary injunction⁷ contending that, in the absence of any implementing rules and regulations, Republic Act No. 7924⁸ (*hereinafter* the MMDA Law) grants the MMDA unbridled discretion to deprive erring motorists of their licenses, preempting a judicial determination of the validity of the deprivation, thereby violating the due process clause of the Constitution.⁹ It was further alleged by the respondent that the provision violates the constitutional prohibition against undue delegation of legislative authority, allowing the MMDA to fix and impose unspecified, and therefore unlimited, fines and other penalties on erring motorists. He further contended that absent any implementing rules from the Metro Manila Council, the issuance of the traffic violation receipt and the confiscation of his license have no legal basis.

The petitioner on the other hand pointed out that the powers granted to it by Section 5(f) of The MMDA Law, are limited to the fixing, collection,

6. *Id.* at 2.

7. See RULES OF CIVIL PROCEDURE, RULE 58 (1997) for procedures regarding preliminary injunction.

8. An Act Creating the Metropolitan Manila Development Authority, Defining its Powers and Functions, Providing Funds Therefore and for Other Purposes, Republic Act No. 7924, § 5(f) (1995) [*hereinafter* MMDA Law].

9. *Garin*, G.R. No. 130230 at 3.

and imposition of fines and penalties for traffic violations, which powers are legislative and executive in nature, and that the judiciary retains no right to determine the validity of the penalty imposed. It argued further that the doctrine of separation of powers does not preclude "admixture" of the three powers of government in administrative agencies.¹⁰ It also asserts that the basis of the power for summary confiscation of license is self-executory and does not require the issuance of any implementing regulation or circular.¹¹

B. The Issues Presented

The bone of contention in this case is the validity of Section 5(f) of the MMDA Law, which authorizes it to confiscate and suspend or revoke drivers' licenses in the enforcement of traffic laws and regulations.¹²

The respondent's license being the subject of such confiscation relegates the issue to a question of the legitimacy of the exercise of powers allegedly bestowed on the administrative agency.

In line with this is the matter of the MMDA being vested with police power, a question earlier addressed in another case, which is nevertheless put under scrutiny once again.

C. The Supreme Court's Decision

The Court held that there is no grant of authority to enact ordinances and regulations for the general welfare of the inhabitants of the metropolis. Therefore the confiscation of the respondent's driver's license is an unauthorized exercise of police power. Only when a valid law or regulation is enacted by the legislature or by the agencies delegated with legislative powers, respectively, is the MMDA in fact duty bound to confiscate, suspend, or revoke drivers' licenses in the exercise of its mandate of transport and traffic management, as well as the administration and implementation of all traffic enforcement operations, traffic engineering services, and traffic education programs.¹³

The primary observation of the Court is that the MMDA is not vested with police power. This contention is consistent with their ruling in *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*,¹⁴

10. *Id.* at 3-4.

11. *Id.* at 6.

12. *Id.* at 1.

13. Republic Act No. 7924, § 3(b).

14. *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*, 328 SCRA 836 (2000).

wherein it was stated that the MMDA Law does not grant the MMDA police power, let alone legislative power, and that all its functions are administrative in nature. The doctrine in the said decision is herein restated, as it applies to the case at bar: police power, as an inherent attribute of sovereignty, is 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.¹⁵ In line and consistent with the *Bel-Air* ruling, the MMDA may enforce, but not enact, ordinances.

It was pointed out by the petitioner that a license to operate a motor vehicle is not a property right, but a privilege granted by the State, which may be suspended or revoked by the State in the exercise of its police power, subject to the procedural requirements of due process. In support of such argument, numerous local and foreign jurisprudence were cited, the common thread in all of which was that the legislature, in the exercise of police power, has the power and responsibility to regulate how and by whom motor vehicles may be operated on the state highways.¹⁶ The Court struck down this argument, emphasizing that police power, as used by the petitioner in such a context, cannot be exercised by any group or body of individuals not possessing legislative power, it being lodged in the National Legislature.

A supervening event of vital importance transpired, pending the resolution of the case. Through its Chairman, the MMDA implemented Memorandum Circular No. 04, Series of 2004, which outlined the procedures for the use of the "Metropolitan Traffic Ticket Scheme." The circular allows the issuance of tickets to erring motorists. In case of traffic violations, drivers' licenses may no longer be confiscated by traffic enforcers as a matter of course.¹⁷ With the turn of events, the issue concerning confiscation of drivers' licenses in the instant case seems to have been rendered moot.

The Court was, however, cautious of the probability that nothing precludes the MMDA from reimplementing the same or a similar scheme involving confiscation of drivers' licenses. In aid of proper implementation of

15. *Garin*, G.R. No. 130230 at 11.

16. *Id.* at 8.

17. See § 7, Metro Manila Development Authority Memorandum Circ. No. 04 (s. 2004).

the petitioner's future programs, the Court deemed it appropriate to rule on the case and lay down its observations pertaining to the matter.¹⁸

III. A RECORD OF ADVANCEMENT AND DIMINUTION: THWARTING THE DEVELOPMENT OF AN AUTHORITY

Before the existence of the MMDA, the forerunner was the Metro Manila Council (MMC). The goals of both the MMDA and the MMC are basically analogous, differing only in the powers given to each as supported by their respective charters:

The MMC was the 'central government' of Metro Manila for the purpose of establishing and administering programs providing services common to the area. As a 'central government' it had the power to levy and collect taxes and special assessments, the power to charge and collect fees; the power to appropriate money for its operation, and at the same time, review appropriations for the city and municipal units within its jurisdiction. It was bestowed with the power to enact or approve ordinances, resolutions and fix penalties for violation of such ordinances and resolutions. It also had the power to review, amend, revise or repeal all ordinances, resolutions and acts of any of the four (4) cities and thirteen (13) municipalities comprising Metro Manila. The MMC, unlike the MMDA possessed legislative police powers. Furthermore, whatever legislative powers the component cities and municipalities had were all subject to review and approval by the MMC.¹⁹

Thereafter, then President Corazon Aquino issued Executive Order No. 392²⁰ and constituted the Metropolitan Manila Authority (MMA). The powers and functions of the MMC were delegated to the MMA. However, not all the powers and functions held by the MMC were passed to the MMA. The MMA's power was limited to the "delivery of basic urban services requiring coordination in Metropolitan Manila."²¹ The MMA's governing body, the Metropolitan Manila Council, although composed of the mayors of the component cities and municipalities, were merely given the power of: (1) formulation of policies on the delivery of basic services requiring coordination and consolidation; and (2) promulgation of resolutions and other issuances, approval of a code of basic services, and the exercise of its rule-making power.²²

18. *Garin*, G.R. No. 130230 at 7.

19. *Bel-Air*, 328 SCRA at 855-56.

20. Constituting the Metropolitan Manila Authority Providing for its Power and Functions and for other Purposes, Executive Order No. 392, § 2 (1990).

21. *Id.*, § 1.

22. *Id.*, § 2.

Under the 1987 Constitution, the local government units became primarily responsible for the governance of their respective political subdivisions.²³ The jurisdiction of the MMA was limited to addressing common problems involving basic services that transcended local boundaries. It did not possess legislative power.²⁴

When the MMDA Law took effect, Metropolitan Manila became a “special development and administrative region,” and the MMDA, a “special development authority” whose functions were without prejudice to the autonomy of the affected local government units.²⁵ The MMDA was then designated to be in charge of the administration of “metro-wide services.”²⁶

Under the said law, MMDA was charged with the administration of *seven* basic metro-wide services.²⁷ One of them is the service of transport and traffic management, which is pertinent to the instant case, and which 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.²⁸

Among the given functions of the MMDA, the main argument in the present case pertains to the following section:

23. PHIL. CONST. art. X, §§1-4 (This principle of local political autonomy is further strengthened by the empowering provisions of Republic Act No. 7160 or more popularly known as the Local Government Code of 1991.).

24. *Bel-Aii*, 328 SCRA at 858.

25. *Id.* at 858.

26. *Id.* at 845-46. The law defined “metro-wide services” to be 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.”

27. *Id.* at 846. These services are as follows: (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.

28. *Id.*

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

(f) Install and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of violations of traffic rules and regulations, whether moving or non-moving in nature, and confiscate and suspend or revoke drivers' licenses in the enforcement of such traffic laws and regulations, the provisions of Republic Act No. 4136 and Presidential Decree No. 1605 to the contrary notwithstanding. For this purpose, the Authority shall impose all traffic laws and regulations in Metro Manila, through its traffic operation center, and may deputize members of the PNP, traffic enforcers of local government units, duly licensed security guards, or members of non-governmental organizations to whom may be delegated certain authority, subject to such conditions and requirements as the Authority may impose.²⁹

It can be gleaned from the historical development of the MMDA that its powers and functions have been visibly limited. The enumeration of the seven basic services supports such stand. For the purpose of this Comment however, the focal point will be on the transport and traffic management aspect. An enumeration of the tasks presently included therein is:

[t]he formulation and monitoring of policies, standards and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares and promotion of the safe movement of persons and goods. It also covers the mass transport system and the institution of a system of road regulation, the administration of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metro Manila for traffic violations.³⁰

A breakdown of this particular power, as delimited by enabling law, will allow a better perspective of the MMDA. In addition, it will be sensible to verify the purpose it deems to serve given the nature of the services involved.

The powers of the MMDA are limited to the following acts: formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installation of a system and administration.³¹

Nowhere in the MMDA Law can it be found that the MMDA has police power, moreso legislative power, considering that the Metro Manila Council in itself has not been endowed with legislative power. The MMDA is simply a *development authority*, as has been emphasized in its charter. The creation of which is for the purpose of laying down policies and

29. *Id.* at 847.

30. *Id.* at 849.

31. MMDA Law, § 1.

coordinating with the various national government agencies, people's organizations, non-governmental organizations, and the private sector, for the efficient and expeditious delivery of basic services in the vast metropolitan area. All its functions therefore are administrative in nature.³²

The advancement of the MMDA has been taxing on its potential. Where once influential and in fact possessing legislative powers, it has since slipped into becoming a weaker administrative body. Through the passage of time and numerous enactments, its authority has significantly diminished, and it has since been the palpable thread. The nature of its coverage, though still termed as "metro-wide," has been narrowed to purely administrative. Still with the same end in mind as its predecessors, it now had a patently shorter leash.

IV. ANALYSIS

A. *Revisiting MMDA v. Bel-Air*

Heavily influencing the present decision of the Court is the precedent set by the case of *MMDA v. Bel-Air*.³³ The effect escalating to such a degree would then merit a reexamination of which, in light of the foregoing.

Briefly, *Bel-Air* involved the dispute between the MMDA and the Bel-Air Village Association, Inc. when through the former's chairman, the MMDA requested to open Neptune Street to public vehicular traffic.³⁴ In their request, the MMDA Law was cited as the legal basis, which enables them to rationalize the use of roads and thoroughfares for the safe and convenient movement of persons. The process would entail tearing down the perimeter wall that separated the private subdivision from the adjacent public road, Kalayaan Avenue. This was opposed by the Respondents, accentuating that the disputed site was part of a private residential subdivision.

The petitioner on the other hand averred that it was endowed by the State with police power, therefore giving it authority to proceed in performing the task. The trial and appellate courts did not give credence to the MMDA's thrust of persuasion. In spite of their demands, the Supreme Court found no merit in their argument, and emphasized further that the MMDA was created to put some order in the metropolitan transportation system but the powers granted by its charter are limited, being only administrative in character. In line with that, their good intentions cannot

32. *Bel-Air*, 328 SCRA at 850.

33. *Id.*

34. *Id.* at 836.

justify the opening for public use of a private street in a private subdivision without any legal warrant,³⁵ particularly an enabling legislative act.

The implication brought about by *Bel-Air* is of unreserved significance. Dissecting its pertinent parts would clear the coagulation behind the issues presented in both cases involving the MMDA. *Bel-Air* gave a thorough discussion of the historical development of the MMDA, how it came to be, and how the powers and functions have fluctuated and, in fact, moderated through time. The emphasis of the limits of its jurisdiction, and the power that it was purposely or inadvertently stripped off, are some points that made up the pertinent resolution. In their arguments, the recurring themes of police power and due delegation of authority, has been the basis of protest pursuant to validity. In the following part of this Comment, a magnified look at the relevant portions of both cases would aid in deciphering the true limits of the MMDA's exercise of its power, and the reasons behind the same.

B. Cases Consolidated

It has been admitted in both *Bel-Air* and *Garin*, that MMDA is indeed an authority, which may enforce, but not enact, ordinances.

In *Bel-Air*, the argument was hinged on police power being vested in the MMDA. It has been characterized as the most essential, insistent and the least limitable of powers, extending as it does to all the great public needs.³⁶ Being an inherent attribute of sovereignty, the strength of the argument stems from that power to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinances; moreover, being plenary in scope it is far reaching and pervasive, justifying its measures. The delegation of this power is what has been allegedly conferred by the legislature to the MMDA, as they would often contend. It was however clarified that the Congress delegated police power, not to the MMDA, but to the local government units through the Local Government Code of 1991. This is found in Section 16 of the said Code, known as the general welfare clause:

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

35. *Id.* at 863.

36. BERNAS, *supra* note 3, at 102.

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.³⁷

The general welfare clause has two branches: first, the general legislative and second, the police power proper.³⁸ The general legislative branch is described as the authority of the local councils to enact ordinance as may be necessary to carry into effect and discharge the *responsibilities conferred upon it by law*. The second branch, the police power proper, refers to the authority to enact ordinances as may be necessary and proper to promote health, safety, enhance the prosperity and general welfare, improve morals and maintain peace and order and preserve comfort and convenience of inhabitants.³⁹

From the abovementioned clause, it can be seen that local government units have the power to enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and promote the general welfare of the inhabitants.⁴⁰ The Local Government Code of 1991 does not contain an exclusive listing of types of police power. More succinctly, the local government units are to exercise police power through their respective legislative bodies as empowered not only by their charters but by the General Welfare Clause of the Local Government Code.

The Petitioner in *Bei-Air* relied heavily on its charter as its source of authority. Although what is provided for falls within the scope of transport and traffic management, by no stretch of imagination can it be interpreted as an express or implied grant of ordinance making power, much less police power.⁴¹

In *Garin*, the basis for their assertion was that Section 5(f) of the MMDA Law is self-executory and does not require the issuance of any implementing regulation or circular. This contention was nevertheless struck down by the Supreme Court. They traced the history of the disputed law and concluded that the MMDA is not a local government or a public corporation endowed with legislative power, and unlike its predecessor, the Metro Manila Council (MMC), it has no power to enact ordinances for the welfare of the

37. THE LOCAL GOVERNMENT CODE OF 1991, § 16.

38. *See* Rural Bank of Makati v. Municipality of Makati, G.R. No. 148339, Feb. 23, 2005.

39. *Id.*

40. *Id.* at § 391(a).

41. *Bei-Air*, 328 SCRA at 852.

community.⁴² Although providing “metro-wide” services would entail a massive force of action substantiated by legitimate authority, purposely or inadvertently, its own enabling law imposes the greatest restriction to its power. Formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, and installation of a system of administration are the powers which define the MMDA, none of which pertains to or grants police power or legislative power. The MMDA charter would illustrate its administrative nature, therefore prohibiting its exercise of police power without a legislative enactment for the purpose it may serve.

In *Bel-Air*, the MMDA was up against a perimeter wall of a private subdivision that would eventually open up a private road. It had apparently no legal warrant to justify the opening of such for public use, because apart from the road’s private character, the lines of MMDA’s jurisdiction have been crossed. In *Garin*, the confiscation of a license does not enjoy the same threshold of protection as the private subdivision in *Bel-Air* would, for a license is a mere privilege and not a right granted to the citizens of the State. Again, it was ruled that MMDA went beyond its means, using the same reasoning as to its limited power preventing it from exercising its authority, not dwelling so much on the nature of a license being a privilege which may be revoked or suspended. Simply put, in both aspects, the MMDA is ineffectual.

C. Extraction

From the MMC, to the MMA, and presently the MMDA, the progression of each body entailed some diminution of control over its area of influence. Although the MMC is the forerunner of the present MMDA, an examination of MMC’s charter⁴³ shows that the latter possessed greater powers which were not bestowed on the MMDA.⁴⁴

Metropolitan Manila was created as a response to the finding that the rapid growth of population and the increase of social and economic requirements in these areas demand a call for simultaneous and unified development; that the public services rendered by the respective local governments could be administered more efficiently and economically if integrated under a system of central planning; and this coordination, especially in the maintenance of peace and order and the eradication of social and economic ills that fanned

42. *Garin*, at 10.

43. A Decree Constituting the Metropolitan Manila Authority, Providing for its Powers and Functions and Other Purposes, Presidential Decree No. 824 (1980).

44. *Bel-Air*, 328 SCRA at 852.

the flames of rebellion and discontent [were] part of reform measures under Martial Law essential to the safety and security of the State.⁴⁵

In reading such, one has to consider the circumstances at that time, when more power was entrusted, as elucidated by the particular needs reflected upon the fresh departure from Martial Law and its antecedent impositions.

MMC's charter further provided:

Sec. 9. Until otherwise provided, the governments of the four cities and thirteen municipalities in the Metropolitan Manila shall continue to exist in their present form except as may be inconsistent with this Decree. The members of the existing city and municipal councils in Metropolitan Manila shall, upon promulgation of this Decree, and until December 31, 1975, become members of the Sangguniang Bayan which is hereby created for every city and municipality of Metropolitan Manila.

In addition, the Sangguniang Bayan shall be composed of as many barangay captains as may be determined and chosen by the Commission, and such number of representatives from other sectors of the society as may be appointed by the President upon recommendation of the Commission.

x x x

The Sangguniang Bayan may recommend to the Commission ordinances, resolutions or such measures as it may adopt; *Provided*, that no such ordinance, resolution or measure shall become effective, until after its approval by the Commission; and *Provided further*, that the power to impose taxes and other levies, the power to appropriate money and the power to pass ordinances or resolutions with penal sanctions shall be vested exclusively in the Commission.⁴⁶

The creation of the MMC carried with it the creation of the Sangguniang Bayan, which was composed of the members of the component city and municipal councils, barangay captains chosen by the MMC and sectoral representatives appointed by the President. The Sangguniang Bayan had the power to recommend to the MMC the adoption of ordinances, resolutions or measures. It was the MMC itself, however, that possessed legislative powers. All ordinances, resolutions, and measures recommended by the Sangguniang Bayan were subject to the MMC's approval. Moreover, the power to impose taxes and other levies, the power to appropriate money, and the power to pass ordinances or resolutions with penal sanctions were vested exclusively in the MMC.⁴⁷ Thus, Metropolitan Manila had a "central

45. A Decree Constituting the Metropolitan Manila Authority, Providing for its Powers and Functions and Other Purposes, Presidential Decree No. 824 (1980).

46. *Bel-Air*, 328 SCRA at 855.

47. *Id.* at 855-56.

government.” In other words, the MMC which fully possessed legislative police powers. Whatever legislative powers the component cities and municipalities had were all subject to review and approval by the MMC.⁴⁸

There was a clamor for autonomy of the local government units that accompanied the 1987 Constitution.⁴⁹

The Constitution itself expressly provides that Congress may, by law, create ‘special metropolitan political subdivisions’ which shall be subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected; the jurisdiction of this subdivision shall be limited to basic services requiring coordination; and the cities and municipalities comprising this subdivision shall retain their basic services requiring coordination; and the cities and municipalities comprising this subdivision shall retain their basic autonomy and their own local executive and legislative assemblies. Pending enactment of this law, the Transitory Provisions of the Constitution gave the President of the Philippines the power to constitute the Metropolitan Authority.⁵⁰

This clamor for autonomy is the catalyst for then Pres. Aquino to have issued Executive Order No. 392⁵¹ and constituted the Metropolitan Manila Authority (MMA), which relatively held a more limited exercise of power compared to the former MMC. Under the Constitution, the local government units became primarily responsible for the governance of their respective political subdivisions. The MMA’s jurisdiction was limited to addressing common problems involving basic services that transcended local boundaries. It did not have legislative power.⁵²

When the MMDA Law took effect, Metropolitan Manila became a “special development and administrative region,” and the MMDA a “special development authority” whose functions were “without prejudice to the autonomy of the affected local government units.” The character of the MMDA was clearly defined in the legislative debates enacting its charter.⁵³

48. *Id.* at 855.

49. *Id.*

50. *Id.* at 857.

51. An Executive Order Creating the Metropolitan Manila Authority and Providing for Funds Therefore, Executive Order No. 392 (1987) (This was not only an executive act but is recognized as a legislative act as well, for during the said time period, the president held both the legislative and executive powers prior to the enactment of the 1987 Constitution.).

52. *Id.* at 858.

53. *Id.* at 858.

The original bill, where the MMDA Law was crafted from, first underwent scrutiny with the Committee on Local Governments. The debates by the legislators on this regard showed the real intention behind the creation of the authority. It was clear that that the MMDA was not a political unit of government, and the power delegated was the same as that given to the Metro Manila Council to promulgate administrative rules and regulations in the implementation their functions, but there was no grant of authority to enact ordinances and regulations for the general welfare of the inhabitants of the metropolis.⁵⁴

It is noteworthy to look into the debates creating the MMDA, as it will give a better perspective of how the legislators had originally intended to tailor the charter to further its functions, but had to resort to some rewording that severely altered the essence of the MMDA.⁵⁵

54. *Id.* at 860.

55. Deliberations of the Committee on Local Government, House of Representatives, Congress of the Philippines, November 10, 1993, at 46-48.

THE CHAIRMAN: Yeah, but we have to go over the suggested revision. I think this was already approved before, but it was reconsidered in view of the proposals, set-up, *to make the MMDA stronger*. Okay, so if there is no objection to paragraph "f".... And then next is paragraph "b," under Section 6. "*It shall approve metro-wide plans, programs and projects and issue ordinances or resolutions deemed necessary by the MMDA to carry out the purposes of this Act.*" Do you have the powers? Does the MMDA ... because that takes the form of a local government unit, a political subdivision.

HON. [Feliciano] BELMONTE: Yes, I believe so, your Honor. When we say that it has the policies, it's very clear that those policies must be followed. Otherwise, what's the use of empowering it to come out with policies. Now, the policies may be in the form of a resolution or it may be in the form of an ordinance. *The term "ordinance" in this case really gives it more teeth, your honor.* Otherwise, we are going to see a situation where you have the power to adopt the policy but you cannot really make it stick as in the case now, and I think here is Chairman Bunye. I think he will agree that that is the case now. You've got the power to set a policy, the body wants to follow your policy, then we say let's call it an ordinance and see if they will not follow it.

THE CHAIRMAN: That's very nice. I like that. However, there is a constitutional impediment. You are making this MMDA a political subdivision. The creation of the MMDA would be subject to a plebiscite. That is what I'm trying to avoid. I've been trying to avoid this kind of predicament. Under the Constitution it states: if it is a political subdivision, once it is created it has to be subject to a

The apparent intent that can be understood from the debates indicates the objective to make the MMDA *stronger* as the legislators put it. The subject of the debate was a particular line in the charter which read, "it shall approve metro-wide plans, programs and projects and issue *ordinances* or resolutions deemed necessary by the MMDA to carry out the purposes of this Act." One of the committee members stated that the term "ordinance" gave the MMDA more 'teeth.' It was agreed upon by the designated committee until the Chairman realized that there would be a Constitutional impediment to such, due to the fact that the MMDA is being made a political subdivision. Being of such character, the creation of the said body would then be subject to a plebiscite.⁵⁶ In allowing it to set up ordinances, it would in effect be a political exercise. In order to avoid the predicament of having to go through a plebiscite, the committee made the MMDA administrative, by changing the wording from "ordinances and resolutions" to "rules, regulations and resolutions."⁵⁷

plebiscite. I'm trying to make this as administrative. That's why we place the Chairman as a cabinet rank.

HON. BELMONTE: All right, Mr. Chairman, okay, what you are saying there is....

THE CHAIRMAN: In setting up ordinances, it is a political exercise. Believe me.

HON. [Elias] LOPEZ: Mr. Chairman, it can be changed into issuances of rules and regulations. That would be ... it shall also be enforced.

HON. BELMONTE: Okay, I will....

HON. LOPEZ: And you can also say that violation of such rule, you impose a sanction. But you know, ordinance has a different legal connotation.

HON. BELMONTE: All right, I defer to that opinion, your Honor.

THE CHAIRMAN: So instead of ordinances, say rules and regulations.

HON. BELMONTE: Or resolutions. Actually, they are actually considering resolutions now.

THE CHAIRMAN: Rules and resolutions.

HON. BELMONTE: Rules, regulations and resolutions. (Emphasis supplied.)

56. *Id.*

57. *Id.*

The bill was then passed and approved with only minor amendments in the Senate, which however did not affect the nature of the MMDA as originally conceived by the House of Representatives.⁵⁸

It is therefore quite apparent that the MMDA is not a local government unit or public corporation endowed with legislative power. Clearly then, the MMC under its charter is not the same entity as the MMDA under the MMDA Law. Unlike the MMC, the MMDA has no power to enact ordinances. It is the local government units, acting through their respective legislative councils, that possess legislative power and police power.⁵⁹

The intention of the lawmakers in creating the MMDA seems to have been to give it more teeth and make it stronger, but the resultant body is in fact a stripped-down version of its predecessors, ultimately always the subject of inquiry as to the legitimacy of its relegated powers.

The rather academic discourse held by the Court in order to resolve the issues herein now serves as the final nail in the coffin. The MMDA has pertinently lost more ground in recent history than it could have ever fathomed from its inception. It has been practically trimmed down to a diminutive body with all that it has undergone. Stripped of legislative rule-making power, deprived of police power, and even prohibited from making contact with erring motorists, there has been a painstaking extraction of whatever authority it enjoyed.

Dissatisfied still, very recently the Makati Regional Trial Court issued a permanent injunction against the MMDA's Metropolitan Traffic Ticket and the No-Contact Traffic Apprehension schemes.⁶⁰ And in an appeal for reconsideration from the same decision, the Court denied such for lack of merit, and reiterated that the Metropolitan Traffic Ticketing scheme was illegal and that the No-Contact Traffic Apprehension scheme was unconstitutional.⁶¹ In a matter of days, it has suffered multiple blows in its already tattered authority. A keen observation of daily headlines would bring forth the realization that it endures more disparagement in every move it makes, from road clearing to traffic management schemes. Being *embattled*

58. Complete House Bill Nos. 14170/11116 with Republic Act No. 7924, February 21, 1995.

59. *Bel-Air*, 328 SCRA at 858.

60. Tarra V. Quismundo, *Court Stops MMDA Traffic Ticket System*, INQ7 NEWS WEBSITE, at http://news.inq7.net/metro/index.php?index=1&story_id=35931 (last accessed July 6, 2005).

61. Tarra V. Quismundo, *Court Junks MMDA Traffic Scheme Plea*, PHIL. DAILY INQUIRER, July 12, 2005, at A18.

would be too conservative a term, considering the severe depletion of its authority as patently revealed in its background.

Recognition of the probabilities, associated with the past government regime, wherein there was a country-wide blatant disregard for certain rights, has stirred a sense of fear to the extent that every attempt of control or imposition of authority, is coldly cast off. In applying such rationale to the body of government, it is remarkable how weak many potential claims to legitimacy are,⁶² and yet never come to a halt. There is often a lack of clear authorization when subjected to weak systems of accountability and control as the participatory rights of affected parties are often ill-protected.⁶³

V. CONCLUSION

What remains in the MMDA's repertoire are the highly controversial pink fences along main thoroughfares. This has not been spared from criticism and has even been given a prescriptive period by some local officials who have found them to be more of a nuisance than of assistance. Its Chairman has been under fire and under constant condemnation from different sectors as new ways and means for improvement are sought. Gradually, while law enactment in aid of such has stagnated, the law enforcement in the same vein has been stifled to a standstill. The constant challenges to the legitimacy of every move significantly weakened its credibility as a development authority. Given a multitude of tasks on hand, and an evident lack of arsenal to fulfill such, leaves it practically disabled and debilitated.

Further down its roots, the ideal envisioned by the law makers in making it strong has fallen on a parody of disdain between the governing and the governed. A reflection over the original intention of the legislators to give it more teeth is but a memoir, retracted and rationalized to the hilt of futility, out of fear of having to submit it to a plebiscite.⁶⁴ The easiest way to create it was in fact also the most convenient, thus making it administrative, but apparently it has not been very effective in dealing with the complexity of matters. Whether up against a wall of a private subdivision, or in the confiscation of a privilege, and not a right that is arguably revocable by the State, it has not enough teeth to masticate on matters that fall within the scope of its authority.

The question now of whether it was better to have extracted the teeth of the MMDA in response to public clamor or to have fervently maintained its stature of law-making authority has been the pressing concern. This

62. BALDWIN, *supra* note 1, at 300.

63. *Id.*

64. PHIL. CONST. art. X, § 10-11.

recognition plagues this Comment, for it appears to have revealed a potential deadlock between over-enforcement on one hand, and hasty legislation on the other. However, it is not suggested that lawmakers adopt a comprehensively rational approach to their task, so that, before a law can be made, all possible processes, enforcement methods, and governmental strategies have to be reviewed in all possible combinations. That would be a recipe for inaction. What is suggested is that, within practical, political, economic, and legal constraints, rules should be seen in their broad governmental context and assessed with reference to the full range of legitimating values.⁶⁵

The matter of convenience and inconvenience may be more determinative than everything put together, when narrowed down to the grave and mundane concerns of the individual. The gist of diminishing capabilities of the MMDA sounds more appealing to many than a more stringent legal orientation of the same. Analogous to the sigh of relief upon the lifting or suspension of the color coding scheme on certain holidays, or the reprieve from license confiscation in lieu of the no-contact rule, is the unyielding attempt to avoid or circumvent such regulations, or simply the inclination to forego with the ostensibly burdensome obligations, regardless of the increasing complexities in the larger scale. Ultimately, the metro-wide development authority as envisioned by the lawmakers in its enabling act has been unnecessarily disabled of its faculties, leaving it in a stale state of decadence.

65. BALDWIN, *supra* note 1, at 304.