Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MUNICIPALITY OF BIÑAN, LAGUNA, ROGELIO V. LEE, ANTONIO P. AGUILAR AND ROBERTO HERNANDEZ,
Petitioners,

-versus-

HOLIDAY HILLS STOCK & BREEDING FARM CORPORATION AND DOMINO FARMS, INC.,
Respondents.

G.R. No. 200403

Present:

LEONEN, *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J.,
KHO, JR., *JJ.*

Promulgated:

OCT 10 2022

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D E C I S I O N

LOPEZ, J. *J*:

This Court resolves the Petition for Review on *Certiorari*[1] dated March 8, 2012 assailing the Decision[2] dated August 22, 2011 and the Resolution[3] dated January 26, 2012 of the Court of Appeals (*CA*) in CA-G.R. SP No. 107564. The CA reversed the Order[4] dated October 30, 2008 of the Regional Trial Court, Branch 25, Biñan, Laguna (*RTC*) dismissing the case and upholding the validity of Municipal Ordinance No. 06, series of 2004 (*Municipal Ordinance No. 06*).

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1 *Rollo*, pp. 10-39.

2 Penned by Associate Justice Noel G. Tijam (now a retired member of this Court), with Associate Justices Marlene Gonzales-Sison and Jane Aurora C. Lantion, concurring; id. at 44-53.

3 Id. at 55-56.

4 Penned by Judge Teodoro N. Solis; records, pp. 184-188.

The Antecedents

On November 24, 2004, the Municipal Council of Biñan, Laguna, issued Municipal Resolution No. 284 (2004), which passed and approved Municipal Ordinance No. 06, an ordinance regulating the use of urban control zones for agricultural use, gradually phasing out large piggery, fowl, and other livestock farms located within the Municipality of Biñan, providing penalties, and for other purposes.[5] Pertinent portions of Municipal Ordinance No. 06 provide:

> MUNICIPAL ORDINANCE NO. 06 (2004)
>
> **Section 1.** *Title*: This Ordinance shall be known as "Urban Control Zones Regulation and Gradual Phase Out of Large Livestock Farms in Biñan, Laguna."
>
> **Section 2.** *Objective*: To regulate the use of urban control zones for agricultural use, gradual phase out of large piggery, fowl and other livestock farms located within the Municipality of Biñan and for other purposes.
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> **Section 3.** *Exemptions*: Gradual Phase-out. Existing large livestock farms, *i.e.* those with more than ten (10) swine heads or more than five hundred birds shall be given the maximum period of THREE (3) YEARS from the approval of this Ordinance to gradually reduce the number of livestock to manageable level. Provided, that no other large livestock farm shall be allowed to operate within the Municipality of Biñan upon the effectivity of this Ordinance.
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> **Section 6.** *Permits*. After three (3) years from the approval of this Ordinance, no business permit, permit to operate shall be issued to existing large livestock farm within the Municipality of Biñan.[6]

On April 6, 2005, the *Sangguniang Panlalawigan* of the Province of Laguna passed and approved Municipal Ordinance No. 06. On August 25, 2005, respondents Holiday Hills Stock & Breeding Farm Corporation (*Holiday Hills*) and Domino Farms, Inc. (*Domino Farms*) received a notice informing them that Municipal Ordinance No. 06 had been approved and is currently being implemented.[7] Thus, on February 7, 2006, Holiday Hills and Domino Farms filed a Petition for *Certiorari*, Declaratory Relief, and Prohibition with application for Preliminary Injunction and/or prayer for Temporary Restraining Order[8] before the RTC, assailing the validity of Municipal Ordinance No. 06.[9] Holiday Hills and Domino Farms assailed Sections 2, 3, and 6 of Municipal Ordinance No. 06 for being vague,

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5 *Rollo*, p. 15.
6 Id. at 15-16. See also records, pp. 154-156.
7 Id. at 16.
8 Id.; see also pp. 44-45.
9 Id. at 45.

whimsical, arbitrary, capricious, and unconstitutional.[10] They argued that Municipal Ordinance No. 06 violated the due process clause of the Constitution, hence, should be struck down.[11]

Petitioners Municipality of Biñan, Laguna, Rogelio V. Lee, Antonio P. Aguilar, and Roberto Hernandez, all officers of the local government (collectively, *Municipality of Biñan et al.*), maintained that the issuance of Municipal Ordinance No. 06 was a valid exercise of police power.[12]

On October 30, 2008, the RTC dismissed the petition of Holiday Hills and Domino Farms upholding the validity of Municipal Ordinance No. 06.[13] The RTC held that the *Sangguniang Panlalawigan* issued it in the exercise of police power and that Holiday Hills' and Domino Farms' facilities, which are located near residential subdivisions, constitute a nuisance *per se*.[14]

Undaunted, Holiday Hills and Domino Farms appealed before the CA, which rendered the assailed Decision[15] dated August 22, 2011 reversing the RTC.[16] Although the CA held that Municipal Ordinance No. 06 is not vague[17] and did not violate Holiday Hills' and Domino Farms' property rights,[18] it found that the ordinance violated Holiday Hills' and Domino Farms' right to substantial due process[19] because their hog farms are not a nuisance *per se* but a nuisance *per accidens*, which cannot be abated *via* an ordinance.[20] Thus:

> **WHEREFORE**, the Appeal is **GRANTED**. The assailed Order of the RTC of Binan, Laguna, Branch 25, in Civil Case No B-6901 is hereby **SET ASIDE**.
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> **SO ORDERED**.[21]

Aggrieved, the Municipality of Biñan *et al.* moved for reconsideration, but the CA denied it in a Resolution[22] dated January 26, 2012.

Hence, the Petition before this Court.

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10 Id. at 17.
11 Id.
12 Id.
13 Id.
14 Id.
15 Id. at 44-53.
16 Id. at 18.
17 Id. at 49.
18 Id. at 48.
19 Id. at 51-52.
20 Id. at 52.
21 Id.
22 Id. at 55-56.

The Municipality of Binan *et al.* posit that Holiday Hills' and Domino Farms' hog farms, which are located near residential subdivisions, constitute a public nuisance that may be abated by the local government of Biñan, Laguna through Municipal Ordinance No. 06.[23] According to them, these hog farms endanger the health of the residents of nearby communities and the foul odor emanating from these farms are obviously of distressing or annoying character.[24] Further, the enactment of Municipal Ordinance No. 06 was a valid exercise of the local government's power to regulate trade within urban control zones.[25] Consequently, when the CA reversed the RTC's Decision, it usurped the authority of the local government of Biñan, Laguna and wrongfully substituted its own judgment for that of the *Sanggunian*'s in determining what the interests of the locality's constituents require.[26]

Holiday Hills and Domino Farms, on the other hand, riposte that, at best, their businesses can only be considered a nuisance *per accidens*.[27] The Municipality of Biñan, *et al.* failed to adduce evidence that the hog farms are directly injurious to the health of the community or its inhabitants.[28] Moreover, the *Sanggunian* failed to show any justifiable condition for the enactment of Municipal Ordinance No. 06, in violation of Holiday Hills and Domino Farms' right to substantive due process.[29]

The sole issue before this Court is whether the CA correctly reversed the RTC Decision and declared the invalidity of Municipal Ordinance No. 06. The Petition is granted.

Our Ruling

Municipal Ordinance No. 06 meets the tests for a valid ordinance

The case of *City of Manila v. Laguio, Jr.*[30] is the authority to determine the validity or invalidity of an ordinance. This Court restates the tests for a valid ordinance:

> The tests of a valid ordinance are well established. A long line of decisions has held that for an ordinance to be valid, it must not only be within the corporate powers of the local government unit to enact and must be passed according to the procedure prescribed by law, it must also conform to the following substantive requirements: (1) must not contravene the Constitution or any statute; (2) must not be unfair or oppressive; (3)

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23 Id. at 20.
24 Id.
25 Id. at 29.
26 Id. at 34.
27 Id. at 130.
28 Id. at 129.
29 Id. at 131.
30 495 Phil. 289 (2005).

must not be partial or discriminatory; (4) must not prohibit but may regulate trade; (5) must be general and consistent with public policy; and (6) must not be unreasonable.

Anent the first criterion, ordinances shall only be valid when they are not contrary to the Constitution and to the laws. The *Ordinance* must satisfy two requirements: it must pass muster under the test of constitutionality and the test of consistency with the prevailing laws. That ordinances should be constitutional uphold the principle of the supremacy of the Constitution. The requirement that the enactment must not violate existing law gives stress to the precept that local government units are able to legislate only by virtue of their derivative legislative power, a delegation of legislative power from the national legislature. The delegate cannot be superior to the principal or exercise powers higher than those of the latter.

This relationship between the national legislature and the local government units has not been enfeebled by the new provisions in the Constitution strengthening the policy of local autonomy. The national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.

The *Ordinance* was passed by the City Council in the exercise of its police power, an enactment of the City Council acting as agent of Congress. Local government units, as agencies of the State, are endowed with police power in order to effectively accomplish and carry out the declared objects of their creation. This delegated police power is found in Section 16 of the Code, known as the general welfare clause, *viz.*:

> 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.

Local government units exercise police power through their respective legislative bodies; in this case, the *sangguniang panlungsod* or the city council. The Code empowers the legislative bodies to "enact ordinances, approve resolutions and appropriate funds for the general welfare of the province/city/municipality and its inhabitants pursuant to Section 16 of the Code and in the proper exercise of the corporate powers of the province/city/municipality provided under the Code." The inquiry in this *Petition* is concerned with the validity of the exercise of such delegated power.[31]

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[31] Id. at 307-308. (Citations omitted)

Enshrined in the Bill of Rights is the tenet that no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.[32]

In justifying the enactment of Municipal Ordinance No. 06, petitioners invoke police power granted to local government units.[33] To invoke police power as a successful justification for the enactment of Municipal Ordinance No. 06, petitioners must establish two requisites: (1) the interests of the public generally – as distinguished from those of a particular class – require an interference with private rights; and (2) the means adopted must be reasonably necessary to accomplish the purpose and not be unduly oppressive upon individuals.[34] In the case at bench, petitioners have satisfied both.

Municipal Ordinance No. 6 seeks to abate a nuisance per se

Petitioners attempt to satisfy the first requisite by citing one of their cornerstones for defending Municipal Ordinance No. 06 — because respondents' large hog farms, which are located near residential subdivisions, constitute a public nuisance that may be abated by the local government of Biñan, Laguna through the said ordinance.[35] The residents of Biñan have exemplified their disgust over these "stench-emitting" hog farms through a collective complaint signed by them.[36]

In this jurisdiction, the doctrine governing nuisances is not novel. As early as 1913, this Court, in *The Iloilo Ice and Cold Storage Company v. The Municipal Council of Iloilo, et al.*,[37] has declared that municipal councils do not have the power to make a factual determination of a thing as a nuisance, unless the thing is a nuisance *per se*. Such power belongs to the courts, and any extrajudicial condemnation and destruction of a nuisance not *per se* cannot be countenanced.[38] Through the words of erudite Justice Grant T. Trent, this Court held:

> The municipal council is, under section 39 (*j*) of the Municipal Code, specifically empowered "to declare and abate nuisances." A nuisance is, according to Blackstone, "Anything that worketh hurt, inconvenience, or damage." (3 Black. Com., 216.) They arise from pursuing particular trades or industries in populous neighborhoods; from acts of public indecency, keeping disorderly houses, and houses of ill fame, gambling houses, etc. (2 Bouv., 248; Miller *vs.* Burch, 32 Tex., 208.) Nuisances have been divided into two classes: Nuisances *per se*, and nuisances *per accidens*. To the first

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32 CONSTITUTION, Art. III, Sec. 1.
33 *Rollo*, p. 25.
34 Id. at 312-313.
35 Id. at 20.
36 Id. at 23.
37 24 Phil. 471 (1913).
38 Id. at 484.

belong those which are unquestionably and under all circumstances nuisances, such as gambling houses, houses of ill fame, etc. The number of such nuisances is necessarily limited, and by far the greater number of nuisances are such because of particular facts and circumstances surrounding the otherwise harmless cause of the nuisance. For this reason, it will readily be seen that whether a particular thing is a nuisance is generally a question of fact, to be determined in the first instance before the term nuisance can be applied to it. This is certainly true of a legitimate calling, trade, or business such as an ice plant. Does the power delegated to a municipal council under section 39 (*j*) of the Municipal Code commit to the unrestrained will of that body the absolute power of declaring anything to be a nuisance? It the decision of that body final despite the possibility that it may proceed from animosity or prejudice, from partisan zeal or enmity, from favoritism and other improper influences and motives, easy of concealment and difficult to be detected and exposed? Upon principle and authority, we think it does not.

In *Rutton vs. City of Camden*, 39 N. J. L., 122, 129; 23 Am. Rep., 203, 209, the court said:

> "The authority to decide when a nuisance exist is an authority to find facts, to estimate their force, and to apply rules of law to the case thus made. This is a judicial function, and it is a function applicable to a numerous class of important interests. The use of land and buildings, the enjoyment of water rights, the practice of many trades and occupations, and the business of manufacturing in particular localities, all fall on some occasions, in important respects, within its sphere. To say to a man that he shall not use his property as he pleases, under certain conditions, is to deprive him *pro tanto* of the enjoyment of such property. To find conclusively against him that a state of facts exists with respect to the use of his property, or the pursuit of his business, which subjects him to the condemnation of the law, is to affect his rights in a vital point. The next thing to depriving a man of his property is to circumscribe him in its use, and the right to use property is as much under the protection of the law as the property itself, in any other aspect, is, and the one interest can no more be taken out of the hands of the ordinary tribunal than the other can. If a man's property cannot be taken away from him except upon trial by jury, or by the exercise of the right of eminent domain upon compensation made, neither can he, in any other mode, be limited in the use of it. The right to abate public nuisances, whether we regard it as existing in the municipalities, or in the community, or in the land of the individual, is a common law right, and is derived, in every instance of its exercise, from the same source — that of necessity. It is akin to the right of destroying property for the public safety, in case of the prevalence of a devastating fire or other controlling exigency. But the necessity must be to justify the exercise of the right, and whether present or not, must be submitted to a jury under the guidance of a court. The finding of a sanitary committee, or of a municipal council, or of any other body of a similar kind, can have no effect whatever for any purpose, upon the ultimate disposition of a matter of this kind. It cannot be used as evidence in any legal proceeding, for the end of establishing, finally, the fact of nuisance, and if it can be made

> testimony for any purpose, it would seem that it can be such only to show that the persons acting in pursuance of it were devoid of that malicious spirit which sometimes aggravates a trespass and swells the damages. I repeat that the question of nuisance can conclusively be decided, for all legal uses, by the established courts of law or equity alone, and that the resolutions of officers, or of boards organized by force of municipal charters, cannot, to any degree, control such decision."
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> The questions discussed in this august array of authorities are exactly those of the present case, and the controlling principles and the reasoning upon which they are founded are so fully and lucidly set forth as to justify us in refraining from comment of our own. It is clear that municipal councils have, under the code, the power to declare and abate nuisances, but it is equally clear that they do not have the power to find as a fact that a particular things is a nuisance when such thing is not a nuisance per se; nor can they authorize the extrajudicial condemnation and destruction of that as a nuisance which in its nature, situation, or use is not such. These things must be determined in the ordinary courts of law.
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> ***In the present case it is certain that the ice factory of the plaintiff is not a nuisance per se. It is a legitimate industry, beneficial to the people, and conducive to their health and comfort. If it be in fact a nuisance due to the manner of its operation, that question cannot be determined by a mere resolution of the board. The petitioner is entitled to a fair and impartial hearing before a judicial tribunal.***
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> The respondent has, we think, joined issued by its answer denying that it was intending to proceed with the abatement of the alleged nuisance by arbitrary administrative proceedings. This is the issue of the present case, and upon its determination depends whether the injunction should be made permanent (but limited in its scope to prohibiting the closing of petitioner's factory by administrative action), or whether the injunction should be dissolved, which will be done in case it be shown that the municipal officials intend to proceed with the abatement of the alleged nuisance in an orderly and legal manner.[39]

Just like *The Iloilo Ice and Cold Storage Company*, this Court, in *Salao v. Santos*,[40] declared that the appellants' smoked fish factory, being a legitimate industry, was not a nuisance *per se*. In *Salao*, the appellants were directed to observe Ordinance No. 23, series of 1929, regarding the operation of their smoked fish factory. Since the business was established long before the enactment of Ordinance No. 23, this Court construed the ordinance as having only prospective application. Further, this Court distinguished between a nuisance *per se* and a nuisance *per accidens*:

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39 Id. at 474-485. (Citations omitted; emphasis supplied)
40 67 Phil. 547 (1939).

> Moreover, nuisances are of two kinds: nuisance *per se* and nuisance *per accidens*. The first is recognized as a nuisance under any and all circumstances, because it constitutes a direct menace to public health or safety, and, for that reason, may be abated summarily under the undefined law of necessity. The second is that which depends upon certain conditions and circumstances, and existence being a question of fact, it cannot be abated without due hearing thereon in a tribunal authorized to decide whether such a thing does in law constitute a nuisance. (Iloilo Ice and Cold Storage Co. vs. Municipal Council of Iloilo, 24 Phil., 471; Monteverde vs. Generoso, 52 Phil., 123, 127.) Appellants' smoked fish factory is not a nuisance *per se*. It is a legitimate industry. If it be, in fact, a nuisance due to the manner of its operation, then it would be merely a nuisance *per accidens*. (Iloilo Ice and Cold Storage Co. vs. Municipal Council of Iloilo, *supra*; Monteverde vs. Generoso, *supra*.) Consequently, the order of the municipal president and those-of the health authorities issued with a view to the summary abatement of what they have concluded, by their own findings, as a nuisance, are null and void there having been no hearing in court to that effect.[41]

What sets a nuisance *per se* apart from one *per accidens* is its characteristic of being a direct menace to public health or safety. Moreover, it is the law of necessity that justifies the summary abatement of a nuisance *per se*. Borrowing from American jurisprudence, *The Iloilo Ice and Cold Storage Company* cited a few examples: slaughterhouses; carcasses of dead animals lying within the city; goods, boxes, and the like piled up or remaining for a certain length of time on the sidewalks; or other things injurious to health, or causing obstruction or danger to the public in the use of the streets and sidewalks.[42] Our own jurisprudence, on the other hand, guides us with examples of nuisances *per se*: houses constructed on public streets without governmental authority,[43] waterways or *esteros* that obstruct the free use by the public of the said streets,[44] or a barbershop occupying a portion of the sidewalk of the *poblacion's* main thoroughfare.

Therefore, to constitute a nuisance *per se*, the obstruction must hinder the public use of streets, highways, or sidewalks, or the interference with the safety or property of a person must be immediate. In other words, the perceived danger that the act, omission, establishment, business, or condition of property poses must be of the type that presents an emergency. To the mind of the Court, no less than these types of situations call for the law of necessity. No other standard can be countenanced, for the measure that a nuisance *per se* calls for is summary abatement – an extreme, if not desperate, measure that calls for exacting circumstances, lest the constitutional guarantee of due process be robbed of its power.

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41 Id. at 550-551. (Citations omitted)

42 *The Iloilo Ice and Cold Storage Company v. The Municipal Council of Iloilo, et al.*, supra note 37, at 480, citing *Denver v. Mullen*, 7 Colo., 345, 353.

43 *Guinto, et al. v. Lacson, et al.*, 108 Phil. 460, 462 (1960).

44 Id.

Here, respondents' hog farms must be considered a nuisance *per se.* The fact that they emit an unfavorable stench immediately interferes with the safety of the residents of Biñan.

Petitioners insist that a nuisance is not only that which endangers the health of others but also that which annoys or offends the senses.[45] As a public nuisance, the large hog farms owned by respondents may be abated through a local ordinance.[46]

A nuisance may be classified in two ways, according to: (1) the object it affects; or (2) its susceptibility to summary abatement.[47] In *Cruz v. Pandacan Hiker's Club, Inc.*,[48] this Court elucidated:

> A nuisance is classified in two ways: (1) according to the object it affects; or (2) according to its susceptibility to summary abatement.
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> As for a nuisance classified according to the object or objects that it affects, a nuisance may either be: (a) a public nuisance, *i.e.*, one which "affects a community or neighborhood or any considerable number of persons, although the extent of the annoyance, danger or damage upon individuals may be unequal"; or (b) a private nuisance, or one "that is not included in the foregoing definition" which, in jurisprudence, is one which "violates only private rights and produces damages to but one or a few persons."
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> A nuisance may also be classified as to whether it is susceptible to a legal summary abatement, in which case, it may either be: (a) a nuisance *per se*, when it affects the immediate safety of persons and property, which may be summarily abated under the undefined law of necessity; or, (b) a nuisance *per accidens*, which "depends upon certain conditions and circumstances, and its existence being a question of fact, it cannot be abated without due hearing thereon in a tribunal authorized to decide whether such a thing does in law constitute a nuisance;" it may only be so proven in a hearing conducted for that purpose and may not be summarily abated without judicial intervention.
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> In the case at bar, none of the tribunals below made a factual finding that the basketball ring was a nuisance *per se* that is susceptible to a summary abatement. And based on what appears in the records, it can be held, at most, as a mere nuisance *per accidens*, for it does not pose an ***immediate*** effect upon the safety of persons and property, the definition of a nuisance *per se*. Culling from examples cited in jurisprudence, it is unlike a mad dog on the loose, which may be killed on sight because of the immediate danger it poses to the safety and lives of the people; nor is it like pornographic materials, contaminated meat and narcotic drugs which are inherently pernicious and which may be summarily destroyed; nor is it similar to a filthy restaurant which may be summarily padlocked in the interest of the public health. A basketball ring, by itself, poses no immediate

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45 *Rollo*, p. 25.
46 Id.
47 *Cruz, et al. v. Pandacan Hiker's Club, Inc.*, 776 Phil. 336, 346 (2016).
48 Id.

> harm or danger to anyone but is merely an object of recreation. Neither is it, by its nature, injurious to rights of property, of health or of comfort of the community and, thus, it may not be abated as a nuisance without the benefit of a judicial hearing.[49]

Whether a thing is a public or private nuisance is relevant only to determine the object that the nuisance affects. Yet, whether it is susceptible to summary abatement can only be determined whether the nuisance is one *per se* or *per accidens*. As earlier discussed, only a nuisance *per se* can be susceptible of summary abatement. Being a nuisance *per se*, petitioners can summarily abate respondents' hog farms. We find that petitioners have substantiated how the alleged annoying and offensive character of respondents' hog farms is deleterious to the public health and safety of the residents of Biñan.

It may not be amiss to state that in *Villanueva v. Judge Castañeda, et al.*,[50] the municipal council of San Fernando, Pampanga, adopted Resolution No. 218, which authorized the petitioners, some 24 members of Fernandino United Merchants and Traders Association, to form a *talipapa* by constructing permanent stalls and selling in the vicinity of San Fernando, Pampanga public market. Consequently, the said resolution was revoked since the land being occupied was beyond the commerce of man and therefore, could not be the subject of private occupancy. The decision was nevertheless unenforced. When the case reached this Court, we eventually ruled that the land being occupied was indeed a public plaza and thus, beyond the commerce of man. But even without this averment, this Court clarified that the problems caused by the usurpation of the place by the petitioners were covered by the police power as delegated to the municipality under the general welfare clause. The filthy condition of the *talipapa*, where fish and other wet items were sold, had aggravated health and sanitation problems, besides pervading the place with a foul odor that had spread into the surrounding areas. Thus, the Court sustained the eviction of the petitioners. In the same manner, there is no debate against the findings of the RTC that the operations of Holiday Hills and Domino Farms near the residential areas in Laguna and Muntinlupa are injurious to the health of the residents.

The means adopted is not unduly oppressive upon individuals

The means adopted, or summary abatement of a nuisance *per se*, is reasonably necessary to accomplish Municipal Ordinance No. 06's alleged purpose. Municipal Ordinance No. 06 purported to regulate the use of urban control zones for agricultural use, implement the gradual phase out of large piggery, fowl, and other livestock farms located within the Municipality of Biñan, and invoked "other purposes." That it sought to "fully protect the

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49 Id. at 346-347. (Citations omitted)

50 238 Phil. 136 (1987).

residents of Biñan, Laguna from all forms of health hazards" appears in the whereas clause of Municipal Resolution No. 284-(2004).[51] More importantly, the assailed ordinance was passed not only because of the need to protect the residents of Biñan, Laguna from all forms of health hazards, but also to regulate the use of urban control zones.[52] Certainly, petitioners established the requisites of a valid ordinance.

In any event, Municipal Ordinance No. 06 merely seeks to reduce the level of livestock to a manageable level, and only those farms with large livestock will be affected. Municipal Ordinance No. 06 does not totally prohibit the conduct of business and even specifies the number of livestock and poultry that must not be exceeded by the business owners. To be sure, it is a form of regulating businesses, which is within the power of local governments under the general welfare clause of the Local Government Code. It 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.

By passing Municipal Ordinance No. 06, the Municipality of Biñan simply exercised its power to promote the general welfare of the residents of Biñan by preserving their comfort and convenience.

ACCORDINGLY, the Petition is **GRANTED**. The Decision dated August 22, 2011 and the Resolution dated January 26, 2012 of the Court of Appeals in CA-G.R. SP No. 107564 are **REVERSED and SET ASIDE**. Municipal Ordinance No. 06 (2004) of the Municipality of Biñan, Laguna is declared **NOT UNCONSTITUTIONAL**.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

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51 Records, p. 154.
52 *Rollo*, p. 29.

WE CONCUR:

MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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.

MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 14, 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.

ALEXANDER G. GESMUNDO
Chief Justice