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[G.R. No. L-26702. October 18, 1979]

JUAN AUGUSTO B. PRIMICIAS, *plaintiff-appellee, vs.* **THE MUNICIPALITY OF URDANETA, PANGASINAN, *ET AL.*,** *defendants-appellants.*

SYLLABUS

1. **POLITICAL LAW; LOCAL GOVERNMENT; MUNICIPAL CORPORATIONS; ORDINANCE; WHEN VALID.**— An essential requisite for a valid ordinance is, among others, that is "must not contravene . . . the statute," for it is a "fundamental principle that municipal ordinances are inferior in status and subordinate to the laws of the state." Following this general rule, whenever there is a conflict between an ordinance and a statute, the ordinance "must give way."

2. **ID.; ID.; ID.; ID.; WHEN INVALID; CASE AT BAR.**— The classifications which must be based on Section 35 are necessary in view of Section 36 which states that "no provincial, city or municipal authority shall enact or enforce any ordinance or resolution specifying maximum allowable speeds other than those provided in this Act." In this case, however, there is no showing that the marking of the streets and areas falling under Section 1, par. (a), Ordinance No. 3, Series of 1964, was done with the approval of the Land Transportation Commissioner. Thus, on this very ground alone, the Ordinance becomes invalid.

3. **REMEDIAL LAW; CRIMINAL PROCEDURE; CRIMINAL PROSECUTION; MAY NOT BE BLOCKED BY COURT PROHIBITION OR INJUNCTION; EXCEPTIONS.**— On the issue of whether a writ of injunction can restrain the proceedings in Criminal Case No. 3140, the general rule is that "ordinarily, criminal prosecution may not be blocked by court prohibition or injunction." Exceptions however are allowed in the following instances: "1. for the orderly administration of justice: "2. to prevent the use of the strong arm of the law in an appressive and vindictive manner; "3. to avoid multiplicity of actions; "4. to afford adequate protection to constitutional rights; "5. In proper cases, because the statute relied upon is unconstitutional or was held invalid."

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APPEARANCES OF COUNSEL

Ambrosio Padilla Law Offices for plaintiff-appellee.
Primicias, Castillo & Macaraeg for defendants-appellants.

D E C I S I O N

DE CASTRO, *J.*:

The main issue in this appeal is the validity of Ordinance No. 3, Series of 1964, enacted on March 13, 1964 by the Municipal Council of Urdaneta, Pangasinan, which was declared null and void by the Court of First Instance of Lingayen, Pangasinan, in its decision dated June 29, 1966, the dispositive portion of which reads as follows:

"WHEREFORE, this Court renders decision declaring Ordinance No. 3, Series of 1964, to be null and void; making the writ of preliminary injunction heretofore issued against the defendant, Felix D. Soriano, definite and permanent; and further restraining the defendants, Amadeo R. Perez, Jr., Lorenzo G. Suyat and Estanislao Andrada, from enforcing the said ordinance all throughout Urdaneta; and ordering the said defendants to return to the plaintiff his drivers (sic) license CPN 017644, a copy of which is Exhibit D-1, and to pay the costs of suit."[1]

From the aforecited decision, defendants appealed to this Court. The antecedent facts of this case are as follows:[2]

On February 8, 1965, Juan Augusto B. Primicias, plaintiff-appellee, was during his car within the jurisdiction of Urdaneta when a member of Urdaneta's Municipal Police asked him to stop. He was told, upon stopping, that he had violated Municipal Ordinance No. 3, Series of 1964, "and more particularly, for overtaking a truck." The policeman then asked for plaintiff's license which he surrendered, and a temporary operator's permit was issued to him. This incident took place about 200 meters away from a school building, at Barrio Nancamaliran, Urdaneta.

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[1] Record on Appeal, pp. 50-51.

[2] *Ibid.*, pp. 36-38.

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Thereafter, a criminal complaint was filed in the Municipal Court of Urdaneta against Primicias for violation of Ordinance No. 3, Series of 1964. Due to the institution of the criminal case, plaintiff Primicias initiated an action for the annulment of said ordinance with prayer for the issuance of preliminary injunction for the purpose of restraining defendants Municipality of Urdaneta, Mayor Perez, Police Chief Suyat, Judge Soriano and Patrolman Andrada from enforcing the ordinance. The writ was issued and Judge Soriano was enjoined from further proceeding in the criminal case.

After trial, the Court of First Instance rendered the questioned decision holding that the ordinance was null and void and had been repealed by Republic Act No. 4136, otherwise known as the Land Transportation and Traffic Code. Now, defendants, appellants herein, allege that the lower court erred in:[3]

"1. declaring that Municipal Ordinance No. 3 (Series of 1964) of Urdaneta is null and void;

"2. requiring the municipal council of Urdaneta in the enactment of said ordinance to give maximum allowable speed and to make classification of highways;

"3. holding that said ordinance is in conflict with Section 35 par. b(4) of Republic Act 4136;

"4. requiring that said ordinance be approved by the Land Transportation Commissioner;

"5. holding that said ordinance is not clear and definite in its terms;

"6. issuing *ex-parte* a writ of injunction to restrain the proceedings in criminal case No. 3140.

The ordinance in question provides:[4]

"SECTION 1 — That the following speed limits for vehicular traffic along the National Highway and the Provincial Roads within the territorial limits of Urdaneta shall be as follows:

[3] *Rollo*, pp. 76-77.

[4] *Rollo*, pp. 39-40.

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a. Thru crowded streets approaching intersections at blind corners, passing school zones or thickly populated areas, duly marked with sign posts, the maximum speed limit allowable shall be 20 kph.

"SECTION 2 — That any person or persons caught driving any motor vehicle violating the provisions of this ordinance shall be fined ₱10.00 for the first offense; ₱20.00 for the second offense; and ₱30.00 for the third and succeeding offenses, the Municipal Judge shall recommend the cancellation of the license of the offender to the Motor Vehicle's Office (MVO); or failure to pay the fine imposed, he shall suffer a subsidiary imprisonment in accordance with law."

Appellants contend that the Ordinance is valid, being "patterned after and based on Section 53,[5] par. 4 of Act No. 3992, as amended (Revised Motor Vehicle Law)." In so arguing, appellants fail to note that Act No. 3992 has been superseded by Republic Act No. 4136, the Land Transportation and Traffic Code, which became effective on June 20, 1964, about three months after the questioned ordinance was approved by Urdaneta's Municipal Council. The explicit repeal of the aforesaid Act is embodied in Section 63, Republic Act No. 4136, to wit:

"Act Numbered thirty-nine hundred ninety-two (3992) as amended, and all laws, executive orders, ordinance, resolutions, regulations, or parts thereof in conflict with the provisions of this Act are repealed."

By this express repeal, and the general rule that a later law prevails over an earlier law,[6] appellants are in error in contending that "a later enactment of the law relating to the same subject matter as that of an earlier statute is not sufficient to cause an implied repeal of the original law." Pursuant to Section 63, Republic Act No. 4136, the ordinance at bar is thus placed within the ambit of Republic Act No. 4136, and not Act No. 3992. The validity of Ordinance No. 3, Series of 1964, must therefore be determined *vis-a-vis* Republic Act No. 4136, the

[5] Section 53 enumerated the rates of speed of motor vehicles for the roads classified in the said section.

[6] *Enrile vs. Vinuya*, 37 SCRA 381, 382 (1976).

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"mother statute" so to speak, which was in force at the time the criminal case was brought against Primicias for the violation of the said ordinance.

An essential requisite for a valid ordinance is, among others, that it "must not contravene . . . the statute,"[7] for it is a "fundamental principle that municipal ordinances are inferior in status and subordinate to the laws of the state."[8] Following this general rule, whenever there is a conflict between an ordinance and a statute, the ordinance "must give way."[9]

Since the Ordinance is aimed at regulating traffic, Chapter IV (Traffic Rules), Article I (Speed Limits and Keeping to the Right), consisting of Sections 35, to 38 of Republic Act No. 4136, particularly Sections 35, 36, 38 contain the provisions material to its validity. Section 35 (b), Republic Act No. 4136, which took the place of Section 53, par. (4), Act No. 3992, provides restrictions as to speed thus:

MAXIMUM ALLOWABLE SPEEDS

		Passenger cars and motorcycles	Motor trucks and buses
1.	On open country roads, with "blind corners" not closely bordered by habitation.	80 km. per hour	50 km. per hour
2.	On through streets or boulevards, clear of traffic, with "no blind corners" when so designated.	40 km. per hour	30 km. per hour

[7] Martin, Ruperto G. *Public Corporations*, 1977 ed., p. 140, Citing Cooley's *Municipal Corporations*, p. 170, 171, and *U.S. v. Abendan*, 24 Phil. 165; *U.S. v. Chan Tienco*, 25 Phil. 89, 91.

[8] Am. Jur. 2d Sec. 374, p. 406.

[9] *City of Basilan v. Hechanova*, L-23841, August 30, 1974, 58 SCRA 711.

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3.	On city and municipal streets, with light traffic, when not designated "through streets."	30 km. per hour	30 km. per hour
4.	Through crowded streets approaching intersection at "blind corners," passing school zones, passing other vehicles which are stationary, or for similar circumstances.	20 km. per hour	20 km. per hour

A look at the aforecited section and Section 1, par. (a) of the Ordinance shows that the latter is more or less a restatement only of number (4), par. (b), Section 35. As observed by the trial court, the Ordinance "refers to only one of the four classifications mentioned in paragraph (b), Section 35,"[10] limiting the rates of speed for.

"vehicular traffic along the national highway and the provincial roads within the territorial limits of Urdaneta to 20 kilometers per hour without regard to whether the road is an open country roads (sic), or through streets or boulevards, or city or municipal streets with light traffic."[11]

As also found correctly by the lower court, the Municipal Council of Urdaneta did not make any classification of its thoroughfares, contrary to the explicit requirement laid down by Section 38, Republic Act No. 4136, which provides:

"Classification of highways. — Public highways shall be properly classified for traffic purposes by the provincial board or city council having jurisdiction over them, and said provincial board, municipal board or city council shall provide appropriate signs therefor, subject to the approval of the Commissioner. It shall be the duty of every provincial, city and municipal secretary to certify to the Commissioner

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[10] Record on Appeal, p. 45.

[11] *Ibid.*, p. 42.

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the names, locations, and limits of all "through streets" designated as such by the provincial board, municipal board or council."

Under this section, a local legislative body intending to control traffic in public highways[12] is supposed to classify first, and then mark them with proper signs, all to be approved by the Land Transportation Commissioner. To hold that the provisions of Section 38 are mandatory is sanctioned by a ruling[13] that

"statutes which confer upon a public body or officer . . . power to perform acts which concern the public interests or rights of individuals, are generally regarded as mandatory although the language is permissive only since they are construed as imposing duties rather than conferring privileges."

The classifications which must be based on Section 35 are necessary in view of Section 36 which states that "no provincial, city or municipal authority shall enact or enforce any ordinance or resolution specifying maximum allowable speeds other than those provided in this Act." In this case, however, there is no showing that the marking of the streets and areas falling under Section 1, par. (a), Ordinance No. 3, Series of 1964, was done with the approval of the Land Transportation Commissioner. Thus, on this very ground alone, the Ordinance becomes invalid. Since it lacks the requirement imposed by Section 38, the provincial, city, or municipal board or council is enjoined under Section 62 of the Land Transportation and Traffic Code from "enacting or enforcing any ordinance or resolution in conflict with the provisions of this Act."

Regarding the contention that the lower court erred in holding that said "Ordinance is not clear and definite in its terms," We agree with the Court *a quo* that when the Municipal Council of Urdaneta used the phrase "vehicular traffic" (Section 1,

[12] Art. II, Sec. 3(j), R.A. No. 4136 states that highways "shall mean every public thoroughfare, public boulevard, driveway, avenue, park, alley and callejon, but shall not include roadway upon grounds owned by private persons, colleges, universities, or other similar institutions."

[13] *Vda. de Mesa, et. al. v. Mencias, etc., et. al.*, L-24583, October 29, 1966, 18 SCRA 533, 542.

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Ordinance) it "did not distinguish between passenger cars and motor vehicles and motor trucks and buses.[14] This conclusion is bolstered by the fact that nowhere in the Ordinance is "vehicular traffic" defined. Considering that this is a regulatory ordinance, its clearness, definiteness and certainty are all the more important so that "an average man should be able with due care, after reading it, to understand and ascertain whether he will incur a penalty for particular acts or courses of conduct."[15] In comparison, Section 35(b), Republic Act No. 4136 on which Section 1 of the Ordinance must be based, stated that the rates of speed enumerated therein refer to motor vehicle,[16] specifying the speed for each kind of vehicle. At the same time, to avoid vagueness, Art. II, Section 3 defines what a motor vehicle is and passenger automobiles are.

On the issue of whether a writ of injunction can restrain the proceedings in Criminal Case No. 3140, the general rule is that "ordinarily, criminal prosecution may not be blocked by court prohibition or injunction."[17] Exceptions however are allowed in the following instances:

"1. for the orderly administration of justice;

"2. to prevent the use of the strong arm of the law in an appressive and vindictive manner;

"3. to avoid multiplicity of actions;

"4. to afford adequate protection to constitutional rights;

"5. in proper cases, because the statute relied upon is unconstitutional or was held invalid."[18]

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[14] Record on Appeal, p. 46.

[15] Am. Jur. 2d Sec. 367, p. 394.

[16] Section 35(b) starts with "(s)ubject to the provisions of the preceding paragraph, the rates of speed of any motor vehicle shall not exceed the following ..."

[17] *Gorospe v. Peñaflorida*, 101 Phil. 892, citing 43 C.J.S. 768, 770; *Lava v. Gonzales*, L-23048, July 31, 1964, 11 SCRA 650, 651; *Ramos v. Torres*, L-23454, October 25, 1968, 25 SCRA 557, 563.

[18] *Ramos v. Torres*, L-23454, October 25, 1968, 25 SCRA 557, 564; *Hernandez v. Albano*, L-19272, January 25, 1967, 19 SCRA 95, 96.

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The local statute or ordinance at bar being invalid, the exception just cited obtains in this case. Hence, the lower court did not err in issuing the writ of injunction against defendants. Moreover, considering that "our law on municipal corporations is in principle patterned after that of the United States,"[19] it would not be amiss for us to adopt in this instance the ruling that to enjoin the enforcement of a void ordinance, "injunction has frequently been sustained in order to prevent a multiplicity of prosecutions under it."[20]

In view of the foregoing, the appealed decision is hereby affirmed.

SO ORDERED.

Teehankee, Acting C.J., Barredo, Makasiar, Concepcion Jr., Santos, Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

Antonio, J., is on leave.

Aquino, J., did not take part.

Abad Santos, J., I concur. The ordinance in question was in effect a speed trap for unwary motorists for which Urdaneta had become notorious.

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[19] *Homeowners Association of the Phil., Inc. v. Municipal Board of the City of Manila*, 24 SCRA 856, 858 (1968).

[20] 6 MCQUILLIN 70, (3rd ed.), citing among others, *Chicago v. Collins*, 175 Ill. 445, 51 N.E. 907, 67 Am. St. Rep. 224; *Holland v. Baltimore*, 11 Md. 186.