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"However, since the imposable penalty for the crime of rape is *reclusion perpetua* (Art. 335, Revised Penal Code, as amended by R.A. 4111), this Court, instead of entering judgment, hereby certifies this case to the Supreme Court for final determination, pursuant to the provisions of Section 12, Rule 124 of the Rules of Court."

The above certification, contained in a *decision on the merits of the appeal* (as distinguished from a mere *resolution*), is a sufficient compliance with section 34 of the Judiciary Law and Section 12, Rule 124 of the Rules of Court.

To require the Court of Appeals to *impose* the penalty of *reclusion perpetua* is not necessary and is not within the contemplation of those legal rules.

SECOND DIVISION

[G.R. No. L-25601. February 21, 1979]

LUISA V. VDA. DE GUISON, PAULINA G. CARLOS; JUANITO GUISON, LILIA G. BONIFACIO, RODOLFO V. GUISON, PACITA G. REYES, ESTER G. CRUZ, RICARDO V. GUISON, and NARCISO GUISON, JR., *petitioners-appellants*, *vs.* **CHIEF OF THE PHILIPPINE CONSTABULARY and PROVINCIAL COMMANDER OF RIZAL**, *respondents-appellees*.

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SYLLABUS

1. **ADMINISTRATIVE LAW; COCKFIGHTING LAW OF 1974 (P.D. NO. 449); OPERATION AND MAINTENANCE OF COCKPITS ARE UNDER THE SUPERVISION OF THE PHILIPPINE CONSTABULARY .** — The issues raised by appellants questioning the authority of the Philippine Constabulary to interfere with the operation of their cockpit in any of the date or dates authorized by a Quezon City ordinance, on the ground that under the Charter of the City, police or law enforcement authority was vested exclusively upon the City Mayor, had been rendered moot and academic upon the issuance of Proclamation 1081 on September 21, 1972, placing the country under Martial Law, and the subsequent enactment of Presidential Degree Nos. 421, 481, 531, 641, and 765, integrating the police forces, jails and fire departments, and placing them under the administrative supervision and control of the chief, Philippine Constabulary, as Director General of the Integrated National Police; as well as the enactment of Presidential Decree No. 449, otherwise named as the Cockfighting Law of 1974, which gave the Chief of the Philippine Constabulary the Authority to supervise the holding cockfights and the operation and maintenance of cockpits.

2. **ID.; ID.; ID.; CITY ORDINANCE AUTHORIZING HOLDING OF COCKFIGHTS AT THE DIRECTION OF MAYOR, NULL AND VOID.** — An ordinance authorizing the holding of cockfighting or *pintakasi* at the discretion of the municipal mayor on days other than those authorized under Sections 2285 and 2286 of the Revised Administrative Code, is null and void, despite the provisions of Republic Act No. 938 authorizing the municipal or city board or council of the municipality to regulate the establishment, maintenance and operation of cockpits within its territorial jurisdiction. Where a permit to hold cockfighting on weekdays was issued pursuant to an invalid ordinance, the grantee thereof had no cause of action to petition for the issuance of a writ of injunction against the Philippine Constabulary Provincial Commander to restrain the latter from stopping them to hold cockfights on said weekdays.

APPEARANCES OF COUNSEL

Alberto O. Villaraza for appellants.
Marcelino Bautista, Jr. and Benjamin M. Tan for appellees.

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DECISION

CONCEPCION, JR., *J.*:

Appeal from the judgment of the Court of First Instance of Rizal, Quezon City Branch, in Civil Case No. Q-8645, denying the petition to restrain the Chief of the Philippine Constabulary and the PC Provincial Commander of Rizal and their agents from interfering with and obstructing the operation of the La Loma Cockpit on days authorized by Ordinance No. 64-5990 of the Quezon City Council.

The facts are not disputed. On January 29, 1960, the City Council of Quezon City, pursuant to Section 80 of its Charter, Republic Act No. 537, enacted Ordinance No. 60-4346, allowing the holding of cockfighting on Saturdays in the City after payment of the prescribed fees and compliance with the requirements mentioned therein. By authority thereof, the petitioners applied for, and were granted a permit by the Quezon City Mayor to hold cockfights at the La Loma Cockpit on Saturdays of every week. However, the then Chief of the Criminal Investigation Service of the Philippine Constabulary ordered the petitioners to stop the holding of cockfights on said days, and as a result, the petitioners filed an action declaratory relief with the Court of First Instance of Rizal; Quezon City Branch, which was docketed therein as Spec. Civil Action No. 6446. After trial, the court rendered judgment holding that Ordinance No. 60-4346 is illegal and null and void, being *ultra vires*.

On August 10, 1964, the Quezon City Council passed Ordinance No. 64-5990, authorizing the City Mayor to issue permits to hold cockfights on Saturdays and certain legal holidays and other week days upon payment of the prescribed fees. Upon application, the petitioners were granted a permit to hold cockfights at the La Loma Cockpit on Saturdays, and certain weekdays, more particularly, on March 11, 1965. However, in the morning of the said day, the PC Provincial Commander of Rizal ordered the petitioners not to hold cockfights on said day, otherwise, the cockpit would be raised and closed. So, on March

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18, 1965, the petitioners filed a petition for injunction with the Court of First Instance of Rizal, Quezon City Branch, to restrain the Chief of the Philippine Constabulary and the PC Provincial Commander of Rizal from interferring with and in any manner obstructing the operations of the La Loma Cockpit on dates authorized by the Quezon City Mayor pursuant to Ordinance No. 64-5990 of the Quezon City Council.[1] The respondents moved to dismiss the petition upon the grounds that Ordinance No. 64-5990 of the Quezon City Council is null and void, citing this Court's decision in the case of *Quimsing vs. Lachica*;[2] and that the action is barred by the prior judgment rendered in Special Civil Action No. 6446, wherein the court, declared Ordinance No. 60-4346 of the Quezon City Council, allowing the petitioners to hold cockfighting on Saturdays of each week at the La Loma Cockpit, null and void, being *ultra vires*.[3] The court, however, denied the motion to dismiss on April 4, 1965 and ordered the issuance of a writ of preliminary injunction upon the filing of a bond in the amount of ₱5,000.00.[4] Accordingly, on May 3, 1965, the respondents filed their answer to the petition, with a motion for the reconsideration of the order of April 14, 1965.[5] On July 14, 1965, the parties submitted stipulation of facts wherein they agreed that:

"1. The La Loma Cockpit, owned by the petitioners, has the corresponding permit to conduct a cockpit for the year 1965, as shown by a photostat copy of Quezon City Mayor's Permit No. 544-46 marked Annex 'A' hereof, and has paid the municipal license fee for the first quarter of 1965, shown by a photostat copy of the receipt of payment of ₱1,500.00 marked Annex 'A-1' hereof;

"2. The City Mayor of Quezon City granted petitioners the permission to hold cockfighting at the La Loma Cockpit on March 11, 1965, as shown by the corresponding permit, a photostat copy

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[1] Record on Appeal, p. 1.

[2] 112 Phil. 110.

[3] Record on Appeal, p. 11.

[4] *Id.*, p. 41.

[5] *Id.*, p. 43.

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of which is marked as Annex 'B' hereof, and the municipal license fee therefor in the sum of ₱100.00 was paid, as shown by a photostat copy of the receipt thereof marked as Annex 'B-1' hereof;

"3. Municipal License No. 65-L-285 was issued by the City Treasurer of Quezon City to the La Loma Cockpit for the operation of a cockpit for the year 1965, as shown by a photostat copy thereof marked Annex 'C' hereof;

"4. The municipal license fee for the second quarter of 1965 has been paid by petitioners, as shown by a photostat copy of the corresponding receipt marked Annex 'D' hereof;

"5. That the cockpit of the petitioners has been found structurally safe by the City Engineer of Quezon City, as shown by a certificate, a photostat copy of which is marked Annex 'E ' hereof;

"6. The Health Department of Quezon City has found the cockpit building of the petitioners to have met sanitary requirements, as shown by photostat copies of the Certificate of Inspection marked Annex 'F' hereof; Record of Final Inspection marked Annex 'F-1' hereof; Certificate of Occupancy marked Annex 'F-2' hereof, and Sanitary Permit marked Annex 'F-3' hereof;

"7. In the morning of March 11, 1965, after the La Loma Cockpit was opened for cockfighting operations but before any cockfighting was done, a P.C. Officer, in representation of the respondent P.C. Provincial Commander of Rizal came to said cockpit and gave notice to the persons in charge that cockfighting on that days was illegal and, unless the La Loma Cockpit desisted from operating said cockpit on that day, the P.C. would raid the place and stop operations therein; accordingly, the petitioners refrained to hold any cockfighting that day, although they had the corresponding permit of the City Mayor, as shown by Annex 'B' hereof, but the same P.C. officer assured the undersigned counsel for the petitioners that the P.C. Provincial Commander of Rizal would see counsel in the afternoon of the same day to discuss the matter;

"8. In the afternoon of March 11, 1965, undersigned counsel for the petitioners saw the said respondent P.C. Provincial Commander at his headquarters in Pasig, Rizal and the latter informed counsel that cockfighting on Mondays, Wednesdays, Thursdays and Fridays was illegal according to the opinion of the Solicitor General so that, unless the petitioners could obtain a judicial injunction like that obtained by cockpit operators in the adjoining municipalities, the

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P.C. would raid the La Loma Cockpit if it was operated on those dates, and this was notwithstanding Ordinance No. 5990 of Quezon City and the permit granted by the Mayor's Office of Quezon City;

"9. The City Mayor of Quezon City had not given the respondents any written request to stop operations of the La Loma Cockpit on March 11, 1965 or on any other dates authorized under Ordinance No. 5990;

"10. In Civil Case No. 6446 of this Hon. Court, entitled "*The testate Estate of Narciso Guison versus Col. Jose Maristela, as Chief of the Criminal Investigating Service of the Philippine Constabulary*," for declaratory relief, judgment was rendered declaring null and void Ordinance No. 60-4346 of Quezon City and no appeal from said judgment was perfected:

"11. The herein petitioners succeeded as heirs to the said estate of Narciso Guison;

"12. On January 7, 1965, the City Fiscal of Quezon City rendered an Opinion, a copy of which is hereto attached as Annex 'G' hereof."[6]

On the basis of the foregoing stipulation of facts and the memoranda submitted by the parties, the court, on September 24, 1965, issued an order denying the petition for lack of cause of action and lifted the writ of preliminary injunction previously issued.[7] The petitioners filed a motion for the reconsideration of this order,[8] but the court denied the said motion on December 7, 1965. The trial court, however, stayed the lifting of the writ of preliminary injunction pending appeal.[9] Subsequently, the petitioners appealed to this Court for a review of the question of law involved. On July 25, 1966, this Court dissolved the restraining order staying the lifting of the writ of preliminary injunction pending appeal.

The appellants have assigned the following errors:

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[6] *Id.*, pp. 60-65.

[7] *Id.*, p. 121.

[8] *Id.*, p. 127.

[9] *Id.*, p. 160.

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1. The trial court erred in not finding that the respondents have no police authority in Quezon City.
2. The trial court erred in not finding that the respondents have no personality or are not the real parties in interest to question the validity of Ordinance No. 5990 of the Quezon City Council;
3. The trial court erred in holding that the judgment in Civil Case No. 6446 was a bar to the instant proceedings; and
4. The trial court erred in holding that the petitioners have no cause of action.

The appeal is without merit. The action is injunctive, and, in a way, prospective, seeking to restrain the respondents from interferring with and obstructing the operation of the La Loma Cockpit in any of the date or dates authorized by Ordinance No. 64-5990 of the Quezon City Council. After the rendition of the judgment in this case, however, certain events took place and several laws have been enacted repealing the ordinance relied upon by the petitioners, as to render the issues raised by them moot and academic. Thus, the appellants claim that under the Charter of Quezon City, the police or law enforcement authority is vested exclusively upon the City Mayor, and the intervention of the Philippine Constabulary and other police agencies in the maintenance of peace and order or in law enforcement within the City is permissible only if the City Mayor requests their assistance where public interest and safety require it. However, upon the issuance of Proclamation No. 1081 on September 21, 1972, placing the country under martial law, and the subsequent enactment of Presidential Decree Nos. 421, 482, 531, 641, and 765, integrating the police forces, jails, and fire departments, and placing them under the administrative supervision and control of the Chief, Philippine Constabulary, as Director General of the Integrated National Police, the issue is moot and academic. The issues raised were likewise rendered moot and academic with the enactment of Presidential Decree No. 449, otherwise named as the Cockfighting Law of 1974, which gave the Chief of the Philippine Constabulary the authority to supervise the holding of cockfights and the operation and maintenance of cockpits.

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As to whether or not the permit issued by the Quezon City Mayor to the petitioners to hold cockfighting at the La Loma Cockpit on weekdays, pursuant to Ordinance No. 64-5990, is valid, the cases of *Quimsing vs. Lachica*,[10] and *Chief of the Philippine Constabulary vs. Sabungan Bagong Silang, Inc., et al.*,[11] are in point. In said cases, this Court ruled that an ordinance authorizing the holding of cockfighting or *pintakasi* at the discretion of the municipal mayor on days other than those authorized under Sections 2285 and 2286 of the Revised Administrative Code, is null and void, despite the provisions of Republic Act No. 938 authorizing the municipal or city board or council of the municipality to regulate the establishment, maintenance and operation of cockpits within its territorial jurisdiction. Since the permit to hold cockfighting on weekdays was issued pursuant to an invalid ordinance, the petitioners have no cause of action.

WHEREFORE, the judgment appealed from should be, as it is hereby, affirmed. Costs against the appellants.

SO ORDERED.

Fernando (Chairman), Antonio, Santos, and *Abad Santos, JJ.*, concur.

Barredo and *Aquino, J.*, took no part.

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[10] 112 Phil. 110.

[11] L-22609. February 28, 1966. 16 SCRA 336.