

44 Phil. 207

[G. R. No. 19650. December 19, 1922]

**FIDEL REYES, PETITIONER, VS. JOSE TOPACIO, AS DIRECTOR OF POSTS,
RESPONDENT.**

D E C I S I O N

MALCOLM, J.:

In these original proceedings in mandamus, the petitioner asks in effect that we annul the fraud order of the Director of Posts against Fidel Reyes, and declare unconstitutional sections 1982 and 1983 of the Administrative Code. The Attorney-General has interposed a demurrer.

The fraud order of the Director of Posts reads as follows:

“It having been established in civil case No. 1865, Fidel Reyes *versus* Anacleto Tolentino, Application for Mandamus, Court of First Instance, Vigan, Ilocos Sur, that on May 3, 1922, Fidel Reyes of Vigan, Ilocos Sur, conducted a gift enterprise for the distribution of money by lot or chance; and

“It having been found that Fidel Reyes has again planned to conduct a similar scheme for September 10, 1922, the evidence of this consisting in printed literature circulated by him; and

“It having been proved that in conducting such gift enterprise, he is using the mail service;

“Now, therefore, by virtue of the provisions of section 1982 of the Administrative Code of the Philippine Islands, the undersigned hereby directs and instructs all postmasters and employees of the Bureau of Posts, to return to the person depositing same in the mails with the word ‘Fraudulent’ plainly written or stamped upon the outside cover thereof, any mail matter of whatever class

mailed by or addressed to *Fidel Reyes, Vigan, Ilocos Sur, and Laoag, Ilocos Norte, or Cine Reyes, or Cine Fidel Reyes, Vigan, Ilocos Sur and Laoag, Ilocos Norte.*

“And further, by virtue of the provisions of section 1983 of the said Administrative Code, the undersigned hereby further forbids the issue or payment by any postmaster of any postal money order to said *Fidel Reyes, or Cine Reyes, or Cine Fidel Reyes, or his representatives or his agents*”

The authority for the issuance of the fraud order, as announced in the body of the order, is sections 1982 and 1983 of the Administrative Code. These sections read as follows:

“SEC. 1982. *Fraud orders.*—Upon satisfactory evidence that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any scheme, device, or enterprise for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, the Director of Posts may instruct any post-master or other officer or employee of the Bureau to return to the person depositing same in the mails, with the word ‘fraudulent’ plainly written or stamped upon the outside cover thereof, any mail matter of whatever class mailed by or addressed to such person or company or the representative or agent of such person or company. The public advertisement by the person or company conducting such lottery, enterprise, scheme, or device, that remittances for the same may be made by registered letters to any other person, firm, bank, corporation or association named therein shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein, but the Director of Posts shall not be precluded from ascertaining the existence of such agency in any other lawful manner satisfactory to himself.

“SEC. 1983. *Deprivation of use of money-order system.*—The Director of Posts may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any scheme, device, or enterprise for obtaining money or property of any kind through the mails by means of false or

fraudulent pretenses, representations, or promises, forbid the issue or payment by any postmaster of any postal money order to said person or company or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind and may provide by regulation for the return to the remitters of the sums named in money orders drawn in favor of such person or company or its agent. The public advertisement by such person or company so conducting any such lottery, enterprise, scheme, or device, that remittances for the same may be made by means of postal money orders to any other person, firm, bank, corporation, or association named therein shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein; but the Director shall not be precluded from ascertaining the existence of such agency in any other lawful manner.”

Predicated on the pleadings and the law herein mentioned, the questions sought to be raised possess little color of merit and require no original investigation. We have in our own records the decision in *Sotto vs. Ruiz* ([1921], 41 Phil., 468), touching on the extent of the power of the Director of Posts. A comparison of sections 1982 and 1983 of the Administrative Code with sections 3929 and 4041 of the Revised Statutes, shows that they have been copied literally from them, which means, of course, that the decisions of the United States Supreme Court, and of the inferior federal courts are controlling.

In our decision in *Sotto vs. Ruiz*, *supra*, it was held: “The use of the mails by private persons is in the nature of a privilege which can be regulated in order to avoid its abuse. Persons possess no absolute right to put into the mail anything they please, regardless of its character. * * * In order for there to be due process of law, the action of the Director of Posts must be subject to revision by the courts in case he has abused his discretion or exceeded his authority. The performance of the duty of determining whether a publication contains printed matter of a libelous character rests with the Director of Posts and involves the exercise of his judgment and discretion. Every intendment of the law is in favor of the correctness of his action. The courts will not interfere with the decision of the Director of Posts unless clearly of opinion that it was wrong.” (Syllabus.)

Section 1982 of the Administrative Code is copied from section 3929 of the Revised Statutes, and section 1983 of the Administrative Code is copied from section 4041 of the Revised Statutes. These portions of Acts of Congress were held constitutional in a series of

leading decisions. (*Public Clearing House vs. Coyne* [1904], 194 U. S., 497; *Ex parte Jackson* [1878], 96 U. S., 727; *Ex parte Rapier* [1892], 143 U. S., 110; *Smith vs. Hitchcock* [1912], 226 U. S., 53; *Badders vs. U. S.* [1916], 240 U. S., 391; *Harris vs. Rosenberger* [1906], 145 Fed., 449; *People's United States Bank vs. Gilson* [1908], 161 Fed., 286.)

The case first cited was a bill to enjoin the postmaster of the city of Chicago from denying the privileges of the mails and of the money order and registered-letter system to the complainant by virtue of a "fraud order" issued by the Postmaster General. An answer and replication were filed, and the cause referred to a master in chancery to take the testimony, and report the same with his conclusions thereon. Thereafter, the case came on appeal to the United States Supreme Court. The constitutionality of sections 3929 and 4041 of the Revised Statutes were attacked upon three grounds: First, because they provide no judicial hearing upon the question of illegality; second, because they authorize the seizure of all letters, without discriminating between those which may contain, and those which may not contain, prohibited matter; and, third, because they empower the Postmaster General to confiscate the money, or the representative of money, of the addressee, which has become his property by the depositing of the letter in the mails. The court, however, found "no difficulty in sustaining the constitutionality of these sections * * * the only reservation being that the person injured may apply to the courts for redress in case the Postmaster General has exceeded his authority, or his action is palpably wrong."

We are satisfied that the Director of Posts did not exceed his authority in making the order in this case. We are further satisfied that sections 1982 and 1983 of the Administrative Code are constitutional.

Wherefore, the demurrer is sustained, and unless the petitioner shall, within five days, amend his complaint so as to state a cause of action, it shall be dismissed, with costs against him.

Araullo, C. J., Street, Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

