

94 Phil. 261

[ G.R. No. L-4916. January 27, 1954 ]

**ABLAZA TRANSPORTATION CO., INC. VS. PROVINCIAL GOVERNMENT OF BULACAN, APPELLEE.**

**D E C I S I O N**

**JUGO, J.:**

This is an appeal from the judgment of the Court of First Instance of Bulacan, sentencing the defendant, Ablaza Transportation Co., Inc., to pay to the plaintiff,

The Provincial Government of Bulacan, the sum of P10,632.10 plus interest and costs.

This case was submitted to the court below on the following agreed statement of facts:

“I

That the parties hereto agree that on October 2, 1945, the Provincial Board of Bulacan, passed and approved Resolution No. 383, under the powers granted under Sec. 2131 of the Revised Administrative Code, designating the Malumot and Halang-sa-Araw bridges as toll bridges fixing the toll rates as stated in that said Resolution No. 383 and that said Resolution No. 383 was duly approved by the Secretary of Public Works and Communications on October 25, 1945;

“II

That by virtue of said Resolution No. 383, all passenger trucks and buses belonging to the defendant, as well as those other motor vehicles belonging to other persons and entities, which

pass through the said Malumot and Halang-sa-Araw bridges, pay the corresponding fees in cash since the effectivity of Resolution No. 383;

“III

That the parties also agree that on March 12, 1948, upon petition of the Messrs. Luis G. Ablaza and Leocadio Ventura, the first being the General Manager of the defendant Company, and the second a representative of the Pampanga Bus Company (Pambus- co), the Honorable Provincial Board of Bulacan passed and approved Resolution No. 228 reducing the toll fees collected at the Malumot and Halang-sa-Araw bridges by 50 per cent effective April 1, 1948; and that in passing and approving said Resolution No. 228 it took into account *“the present state of improvement of the road and bridges between Paombong and Hagonoy.”*

“IV

That the parties agree that after the approval of Resolution No. 228, the trucks and buses of the defendant company were allowed to pass over the said toll bridges by requiring every bus conductor of the defendant to sign the ABTRANCO DAILY TOLL BRIDGE REPORT, which was furnished the toll gate keeper and collector and the defendant pay the corresponding toll fees at the end of every month, and pursuant thereto the defendant made the required security deposit of P1,000 on March 16, 1948;

“V

That the parties also agree that since May 1, 1948 up to November 30, 1948 inclusive, the defendant company has not paid the corresponding toll fees for all its trucks and buses that passed thereto as of the date mentioned above which amounts to P10,632.10;

“VI

That the parties also agree that the construction of the Malumot and Halang-sa-Araw bridges was not financed by the plaintiff out of any loans it contracted or out of any bonds it issued for that purpose.

Malolos, Bulacan, August 19, 1949.

(Sgd.) FELICIANO S. TORRES  
*Assistant Provincial Fiscal*

(Sgd.) AMADO B. REYES  
*Counsel for the Defendant  
Hagonoy, Bulacan”*

The Resolution No. 383, above mentioned, of the Provincial Board of Bulacan declaring the Malumot and Halang-sa-Araw bridges as toll bridges was passed under the authority of Section 2131 of the Revised Administrative Code, which reads as follows:

“When the provincial board of any province shall deem such course to be necessary for the proper maintenance of any provincial road within the province, it may designate such road or part thereof, or any bridge or ferry built or to be built or maintained as part thereof, as a toll road, bridge or ferry, and may fix toll rates to be paid for the use thereof upon authorization by the Governor General (now President) and the recommendation of the Secretary of Commerce and Communications (now Public Works and Communications) in the case of road, and in the case of bridges and ferries upon authorization and approval by the Secretary of Commerce and Communications (now Public Works and Communications): *Provided*, The rates fixed shall not be subject to revision by the Public Service Commission.”

It will be noted that under the provisions of said section, the recommendation of the Secretary of Public Works and Communications and the authorization of the

President of the Philippines are necessary for declaring a toll road; and only the authorization and approval of the Secretary of Public Works and Communications are necessary for declaring toll bridges and ferries. In the present case, Resolution No. 383 of the Provincial Board of Bulacan was approved by the Secretary of Public Works and Communications, but not by the President.

When the defendant company requested that the collection of tolls on said bridges be discontinued, the Provincial Board denied the request on the ground that the continuance of the collection of said tolls was necessary for the maintenance of the provincial road and that all collections of said tolls would be dedicated exclusively to the maintenance and improvement of the Malolos-Hagonoy road, announcing that the collections would continue until said road could be properly maintained and improved solely from the provincial road and bridge funds. It will be seen that in the guise of bridge tolls the appellee has been collecting road tolls without any authority from the President, as required by Section 2131 of the Revised Administrative Code. The appellee would make the continuance of the collections of what in effect are road tolls depend upon the discretion of the Provincial Board. Considering that the bridges themselves do not need much repair if they are made of reinforced concrete, it would seem that, according to the theory of the appellee, it could continue collecting the so-called bridge tolls indefinitely, to the great prejudice of the public not only in terms of money, but also in delays necessarily caused by the collection of the tolls.

As to the counterclaim of the appellant, it should be considered that as the payments were made voluntarily, and were even reduced to 50 per cent on its request, without questioning the validity of the resolutions above mentioned, and, for that reason, the appellee disposed of the money collected for the public welfare and for the benefit, in part, of the appellant itself which used said road and

bridges, it would now be unfair to require the Provincial Government of Bulacan to make the refund.

In view of the foregoing, the decision appealed from is reversed but the counterclaim of the appellant is dismissed, without costs. So ordered.

*Paras, C. J., Pablo, Bengzon, Padilla, Reyes, Bautista Angelo, and Labrador, JJ., concur.*

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