

**PRESCILA S. EBOÑA, EULALIA CABANELA, EUSEBIA CABANELA,
ELEUTERIO CABANELA, NIEVES ESPINOSA, PANTALEONA C.
TOTANES, RICARDO CABANELA, PETRA ABANES, ADELA VASQUEZ
AND AGAPITA ARBO...**

G.R. No. L-2811. January 28, 1950

Ponente: TORRES, J.

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TORRES, J.:

The municipal council of Daet, province of Camarines Norte, passed Municipal Ordinance No. 7, which was duly approved by the provincial board on June 12, 1948, "prescribing the zonification of the public markets, and rules and regulations with regards to the rights to occupy space in the market buildings, and penalties therefor." The pertinent portions of said ordinance are as follows:

"SEC. 2. All occupants in the buildings publicly known as market proper, should observe strictly the regulations with regards to the zonification in the following manners:

"Zone 1. Market Building No. 1.—Opposite Market Tiendas Block A and B will be designated to all merchants or dealers of dry goods and general merchandise;

"Zone 2. Market Building No. 2.—Opposite Market Tiendas Block C and D will be designated to all merchants dealing in 'Cafeterias', 'Carenderias' and 'Sari-sari'; and

"Zone 3. Market Building No. 3.—New Market Building will be designated to all merchants of dry and fresh fishes, meat and vegetable vendors.

"SEC. 3. It is hereby prohibited for any merchants or dealers in goods to sell his goods and wares in the zone not allocated for the purpose as regulated above."

It appears that prior to the passage of said Municipal Ordinance No. 7 and the approval of Resolution No. 104 of the municipal council of Daet, the public market of the municipality consisted only of two buildings designated as Nos. 1 and 2. A third building known as Building No. 3 having been completed, the municipal council passed the ordinance in question and by said Resolution No. 104 decided to enforce the provisions of said ordinance by requiring the merchants and vendors occupying the places in Buildings Nos. 1 and 2 to transfer their places of business in accordance with the classification provided for in Section 2 of the ordinance, so that "dealers or merchants of dry goods and general merchandise¹¹ shall be located in Zone 1 (Building No. 1); "merchants operating cafeterias, carenderias and sari-sari" are assigned to Zone 2 or Market Building No. 2; and merchants dealing in "dry and fresh fishes, meat and vegetables" shall operate their place of business in Zone 3, known as Market Building No. 3. The above-quoted Section 3 of the ordinance expressly prohibits "any merchant or dealer in goods to sell his goods and wares in the zone not allocated for the purpose as regulated above."

Prior to the completion of Building No. 3 and the passage in 1948 of Municipal Ordinance No. 7, the petitioners, engaged in the business of carenderia and cafeteria, were located in Building No. 1, and they contend that

Municipal Ordinance No. 7 which required and compelled them to transfer to another building, is unconstitutional, illegal, null and void, because it is unjust, discriminatory, unreasonable and confiscatory in so far as it refers to the plaintiffs and their business in the market stalls occupied by them in Market Building No. 1 of the Municipality of Daet. They filed a complaint against the Municipality of Daet, praying that said Ordinance No. 7 be declared unconstitutional, illegal, null and void, and that, pending the determination of this case, a writ of preliminary injunction be issued against the defendant, its instrumentalities, agents, officers and representatives, enjoining them from evicting, removing or throwing out the plaintiffs from their market stalls in Market Building No. 1 of Daet, and that after trial the said injunction be made permanent.

After hearing, the Court of First Instance of Camarines Norte upheld the constitutionality and legality of the ordinance in question and declared that the municipal council of Daet, being empowered to enact said ordinance and the same having been enacted for the good of the public, the same is not null, void and unconstitutional and much less discriminatory, unjust, unreasonable and confiscatory as contended by the petitioners. The court, therefore, dismissed the complaint without pronouncement as to costs.

In this appeal, the plaintiffs-appellants, besides assailing the constitutionality and legality of the ordinance, contend that the court should have found that the plaintiffs are entitled to continue in the occupancy of their stalls in the market of Daet in accordance with Republic Act No. 37 and should have perpetually enjoined the defendant, its officers and representatives, from evicting and throwing them out from their market stalls in Building No. 1.

There is no dispute as to the facts. It has been established at the hearing that these appellants were occupants of stalls in Building No. 1 of the market of the Municipality of Daet, and were engaged in the business of conducting cafeterias and carenderias prior to the passage of Resolution No. 104, series of 1948, whereby the municipal council of Daet seeks to enforce the provisions of Municipal Ordinance No. 7.

With reference to the contention of appellants that Republic Act No. 37 is applicable to them, our perusal thereof shows that it can not be of any help to their case, because said act has for its purpose the "granting preference to Filipino citizens in the lease of public market stalls." In the case at bar, the issue of the nationality of the stallholders has not been raised by appellants, is not at all mentioned in the provisions of Ordinance No. 7 and Resolution No. 104 of the municipal council of Daet, and under the provision of said ordinance the appellants are not divested of the possession of their stalls in the market.

Regarding the alleged unconstitutionality and illegality, etc., of the ordinance in question, upon close scrutiny of its provisions, its wording and its purpose, We find nothing that would support the contentions of appellants. They can not deny that under the general welfare clause contained in Section 2238 of the Revised Administrative Code, the municipal council of Daet is empowered to "enact ordinances and make regulations, not repugnant to law, as may be necessary to carry into effect and discharge the powers and duties conferred upon it by law; and such as shall seem necessary and proper to provide for the health and safety, promote the prosperity, improve the morals, peace, good order, comfort, and convenience of the municipality and the inhabitants thereof, and for the protection of property therein."

We find that Ordinance No. 7, provides for the good, comfort and convenience of the public and the market vendors as well. By the zonification and classification provided for by its provisions, the public, the consumers, can easily locate the place where they can find the particular goods or commodities they want to buy. Even the merchants and vendors occupying the stalls are likewise benefited by the zonification and classification provided for in the ordinance, in that they will be placed where they should belong, instead of being mingled in the same building with vendors or merchants dealing in goods or merchandise or foodstuffs which are not akin with the

class of merchandise or goods in which they are dealing. To be sure, these appellants who according to the petition, are dealing in cafeterias and carenderias, and consequently their customers, will not feel happy to be among fish vendors or the like.

That the act performed by the Municipality of Daet in enacting Municipal Ordinance No. 7? is entirely within the power of the municipal corporation, is decided by this Court in various similar cases (Seng Kee & Co. vs. Earnshaw, 56 Phil. 204). In U.S. vs. Salaveria (39 Phil. 102), which holds that the presumption is all in favor of the validity of the ordinance, this Court held that:

"Although, such regulation often interferes, with an owner's desire as to the use of his property and hamper his freedom in regard to it, they have generally been sustained as valid exercises of the police power, provided that there is nothing arbitrary or unreasonable in the laying out of the zones, and that no uncontrolled discretion is vested in an officer as to the grant or refusal of building permits.

"Not only the State effectuate its purposes, through the exercise of the police power, but the municipalities does also. Like the State, the police power of a municipal corporation extends to all matters affecting the peace, order, health, morals, convenience, comforts, and safety of its citizens—the security of social order—the best and highest interests of the municipality. The best considered decisions have tended to broaden the scope of action of the municipality in dealing with police offenses. The public welfare is rightly made the basis of construction."

Moreover, in a recent decision promulgated in the case of Julia Lorenzo and Mariano Estrella vs. The Municipal Council of Naic, Cavite and Pilar Dinio (G.R. No. L-2652, Dec. 7, 1949),^[1] which affirms the judgment of the Court of First Instance of Cavite, which dismissed the complaint of the appellants against the municipal council of Naic, We held that the lower court did not err in finding against the appellants because when the municipality administers the market, it has the authority to regulate the use thereof and may distribute and award the spaces therein to be occupied by stores and stalls under conditions and regulations it may impose.

Premised on all the foregoing, and finding no error committed by the lower court in the disposition of the case under considerations the judgment appealed from is affirmed. Appellants shall pay the costs.

Moran, C. J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.
Feria, J., no part.

[1] 85 Phil., 92.

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