

**CEFERINO ESTEBAN, GERONIMO CASTRO, ANDREA G. GALINDEZ,
MARIA B. RONQUILLO, ISABEL ALEJO, ANACLETO MARANAN,
FELIPE GARCIA, ELEONOR P. VELAYO, HERMOGENES G. DOMINGO,
ALICIA GUZMAN...**

G.R. No. L-13662. May 30, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

In the pleading with which this case was initiated, entitled "Petition for declaratory judgment, injunction, etc.," the nineteen (19) plaintiffs who are holders of stalls or "plats" in the market site of the City of Cabanatuan, claiming to act on their behalf and that of other stallholders belonging to their class, prayed the Court of First Instance of Nueva Ecija to "enjoin the City of Cabanatuan and all its high officials from enforcing, or acting on, * * * Ordinance No. 12, series of 1956, pending this law suit"; to allow "the plaintiffs to continue paying the defendant their rentals at the old or usual rates"; to "declare said ordinance null and void for being ultra vires and unconstitutional"; to "apply all their payments made in April and May or June to the several months they may equitably apply at the old rates"; and to grant "such other reliefs the Court may deem fair and reasonable as a court of equity."

Soon after the filing of said petition, the lower court issued the writ of preliminary injunction therein prayed for, upon the filing of a P1,000.00 bond.

Subsequently, four (4) other holders of stalls or "lots," in said public market, namely, Juanita Rabosa, Eustaquia de la Cruz, Eugenia Aguirre and Gloria Garcia, were allowed to intervene and join the original petitioners. In due course, judgment was rendered, thereafter, dismissing plaintiffs' complaint, as well as the complaint in intervention, with costs, and dissolving said writ of preliminary injunction. Plaintiffs appealed to the Court of Appeals, which, however, certified the case to Us, inasmuch as the validity of a city ordinance is in issue therein.

The main facts are set forth in the decision appealed from, from which we quote:

"The City of Cabanatuan is the owner of a block located in the heart of the City used as a market site. It is bounded by Paco Roman, Melencio, and Sanciangco Streets and Burgos Avenue. This is leased to stallholders by the City. A sketch plan, Exhibit A, indicates the division of the market site. Plaintiffs are stallholders on Melencio and Sanciangco streets and their names are indicated in the sketch, Exhibit A. Stalls without names indicate that the holders thereof are not questioning the validity of reasonableness of Ordinance No. 12.

"For several years prior to the approval of Ordinance No. 12 by the Municipal Board of the City of Cabanatuan on March 21, 1956, plaintiffs had been occupying", as lessees, stalls on Melencio and Sanciangco streets as indicated in the plan, Exhibit A. It does not clearly appear whether they have written contracts of lease with the City of Cabanatuan. Be that as it may, it has not been shown that if they have such contracts, the period had not expired. Since the rental under Ordinance No. 48, series of 1945 and Ordinance No. 22, series of 1949 was paid by the month, it must be deemed that the lease contract was from month to month. Under Ordinance 48,

series of 1945, the plaintiffs paid P.20 per square meter per month on the lots occupied by them. This was raised to P.30 a month by Ordinance No. 22, series of 1949; On March 21, 1956, the Municipal Board of Cabanatuan City passed and approved Ordinance No. 12, series of 1956, raising the rentals on Burgos Avenue and Paco Roman Street from P.035 and P.034, respectively, per square meter to P.05 per square meter a day, and lots on Melencio and Sanciangco Streets to P.03 and P.04 per square meter beginning June 1, 1956 to July 31, 1956 and after July 31, 1956 to P.05 per square meter per day. The validity of this ordinance is challenged by the plaintiffs as unreasonable and confiscatory and, therefore, null and void."

At the outset, we note that plaintiffs contest the legality of the ordinance in question upon the ground that the rates therein fixed are unreasonable. This claim is, in turn, predicated upon the theory that a municipal ordinance, to be valid, "must relate to a subject within the scope of the corporation; it must be in harmony with the constitution, the laws and treaties of the state, the municipal charter and the general principles of common law and equity, * * * it must be reasonable in its terms; and it must be enacted in good faith, in the public interest alone." (Appellants' brief, p. 10.) The foregoing statement must be qualified. It is, more or less, an expression of the rule governing the validity of municipal ordinance enacted in the exercise of the police power, under which most, but not all, ordinances as well as laws, fall. Hence, the amount of license fees, whether imposed by the national government or by local governments must be reasonable.

Certain exactions, impossible under an authority other than police power, are not subject, however, to qualification as to the amount chargeable, unless the Constitution or the pertinent laws provide otherwise. For instance, the rates of taxes, whether national or municipal, need not be reasonable, in the absence of such constitutional or statutory limitation. Similarly, when a municipal corporation fixes the fees for the use of its properties, such as public markets, it does not wield the police power, or even the power of taxation. Neither does it assert governmental authority. It exercises merely a proprietary function. And, like any private owner, it is—in the absence of the aforementioned limitation, which does not exist in the Charter of Cabanatuan City (Republic Act No. 526)—free to charge such sums as it may deem best, regardless of the reasonableness of the amount fixed, for the prospective lessees are free to enter into the corresponding contract of lease, if they are agreeable to the terms thereof, or, otherwise, not enter into such contract.

Needless to say, the authorities relied upon by the plaintiffs are not in point. The Association of Customs Brokers, Inc. & G. Manlapit Inc. vs. Municipal Board of Manila, 93 Phil., 107; 49 Off. Gaz. (5) 1803 and Philippine Motors Association vs. City Assessor of Manila, G. R. No. L-4442 (May 22, 1953), referred to an ordinance taxing motor vehicles operating within the City of Manila, which was declared unconstitutional because it was not a property tax and it violated the Motor Vehicles Law, (Act No. 3992), apart from being discriminatory. The case of Yick Wo vs. Hopkins (118 U. S. 356) involved an ordinance, enacted in the exercise of the police power, regulating the operation of laundries. In short, the reasonableness of the amount charged for the use of patrimonial property was not vital to the validity of the ordinances in issue in said cases.

In any event, sections 1, 2 and 3 of the ordinance in question provide:

"Section 1. RENTALS OF MARKET LOTS.—Unless otherwise changed by the Municipal Board, the City Treasurer shall collect the following rents on the following market lots:

'(a) Lessees of lots fronting Burgos Avenue and Paco Roman Street who are now paying P0.035 and P0.034 respectively per square meter a day shall pay P0.05 per square meter a day;

'(b) Lessees of lots fronting Paco Roman, Melencio and Sanciangco Streets who are now paying P0.01 per square meter a day shall pay P0.03 per square meter a day. This rate of P0.03 shall be P0.04 beginning June 1, 1956 up to July 31, 1956 and P0.05 thereafter.'

"Section 2. RENTALS OF OTHER CITY LOTS.—Unless otherwise changed by the Municipal Board, the City Treasurer shall collect the following rentals on the following City Lots which are not market lots:

'(a) Lessees of lots fronting Burgos Avenue who are now paying P0.01 per square meter a day shall pay P0.03 per square meter a day;

'(b) Lessees of lots fronting Melencio Street who are now paying P0.01 per square meter a day shall pay P0.03 per square meter a day; and

'(c) Lessees of lots fronting Rizal Street who are now paying P0.05 per square meter a month shall pay P0.02 per square meter a day.' (Ordinance No. 12, supra, Rec. on Appeal, pp. 7-8.)

"Section 3.—POLICY OF GOVERNMENT.—Henceforth, no person or persons shall be permitted, directly or indirectly, to lease any lot or lots within the public market with an area exceeding twenty-four (24) square meters, that is, 4 m. x 6 m. All lessees of market lots or spaces now paying or who will pay P0.05 per square meter a day under the provisions of Section 1 hereof shall pay P0.10 a day beginning January 1, 1957 for every square meter they are now occupying and may occupy in excess of twenty-four (24) square meters. (Ordinance No. 12, supra, Rec. on Appeal, p. 8.)"

Referring to the question whether the rentals thus fixed are unreasonable and discriminatory or not, the lower court lucidly stated:

"* * * The main argument of plaintiffs is that the raising of fees from P0.01 per square meter per day to P0.03 daily, and thereafter to P0.04 beginning June 1, 1956, and then P0.05 beginning July 1, 1956, is unreasonable, abusive, prohibitive and unwarranted- At first blush, the raise being sudden and abrupt, it would seem that plaintiffs' contention is tenable. But a comparison with the rentals paid by other stallholders in the same market site reveals that the City of Cabanatuan is only charging stallholders on Melencio and Sanciango Streets the same rates which are charged to other stallholders in the same market site, and which these stallholders had been paying prior to the approval of Ordinance No. 12 on March 21, 1956. As early as 1945 stallholders on Paco Roman Street were paying P.035 per square meter per day and those on Burgos Avenue were paying P0.034 per square meter. This was the rate they were paying up to the approval of Ordinance No. 12. All the while, from 1945 to April 1, 1956, stallholders on Sanciango and Melencio Streets were enjoying a rare privilege in that they were paying only 2/3 of a centavo per square meter per day from 1945 to 1949, and P.01 per square meter from 1949 up to the approval of Ordinance Nos. 12 on March 21, 1956. And it is to be noted that Melencio and Sanciango Streets appear to be the busier section because these streets are bus terminals. The reason for this rate privilege enjoyed by the stallholders on Melencio and Sanciango Streets was that prior to the election of November, 1955, there were two members of the Municipal Board of Cabanatuan City who were stallholders on Melencio and Sanciango Streets. While it does not appear from the evidence that those two members of the board had obstructed the increase in rentals, the records do show that notwithstanding the recommendation of the City Treasurer to the Municipal Board in 1952, to raise the rentals on Paco Roman and Sanciango Streets to P.05 per square meter a day, the recommendation remained unacted. After the election of 1955, those two members of the Municipal Board ceased to be members of the Municipal Board. Again, the City Treasurer recommended to the Municipal Board that the rentals on the market site be raised, Exhibit 1. Acting upon this recommendation of the City Treasurer, Ordinance No. 12 series of 1956, raising the rentals, was approved by the Municipal Board.

"For over about 10 years, the stallholders on Burgos Avenue and Paco Roman street were paying P0.034 and P0.035 per square meter a day. This must be conclusively presumed justified and reasonable for there had been no protest and no question as to their reasonableness had been raised by the stallholders on these streets. It stands to reason that the same rate would be reasonable on Melencio and Sanciango Streets, more so, because these two streets appear to be busier streets. With the passing years it may be presumed that land values went up and population increased. The increase of rentals from P.035 per square meter to P.05 cannot

be said unreasonable nor oppressive. And the best evidence that it is not so is that none of the stallholders on Burgos Avenue had questioned the reasonableness of the ordinance, and of all the stallholders of Paco Roman Street, only one raised the question. Inside the market site, the lowest fee is P.05 per square meter a day, the highest being P0.10. These rates, notwithstanding, it appears that business continue to flourish inside the market and on Paco Roman Street and Burgos Avenue. And notwithstanding the approval of Ordinance No. 12, there are many applicants for the lease of stalls on Melencio and Sanciango Streets. If the fees charged by the City of Cabanatuan were out of proportion to the flow of business, as to leave no reasonable profits, operators of stalls inside the market site and on Paco Roman Street and Burgos Avenue would have abandoned their business and stalls long before the approval of Ordinance No. 12. The fact is that all these stallholders on Paco Roman and Burgos Avenue and those inside the market site have continued to pay the fees charged by the City of Cabanatuan without any protest. Stallholders on Sanciango and Melencio Streets must have realized bigger profits considering the privilege they enjoyed. It is the loss of a part of this profit that led the plaintiffs to question the validity and reasonableness of the ordinance. If anyone had a right to protest, it is those stallholders inside the market and on Paco Roman Street and Burgos Avenue who had been discriminated upon prior to the approval of Ordinance No. 12. Ordinance No. 12 does nothing more than to equalize the fees imposed upon stallholders and to correct an injustice which had been existing for over ten years. The privilege they have been enjoying for over 10 years was merely taken away by the Municipal Board."

Upon a review of the record, we find ourselves fully in agreement with the foregoing views of His Honor, the Trial Judge.

It is urged, however, that:

"The lower court erred in barring the presentation of testimonial evidence tending to show the keen competition being met by appellants' business from the business of stallholders inside the market and that of the storekeepers or business establishments along the opposite side of the streets, for which reason appellants' business is slack and poor, a condition that will ultimately drive them away from pursuing their only means of livelihood if and when the provisions of the ordinance are applied to them."

There is no merit in this pretense. The bigger number of stores and other business enterprises being allegedly established and operated along the side of the streets opposite to that in which appellants' stalls, plats or lots are situated, would merely indicate the growing importance of, and volume of the traffic in said streets, and justify the increase in the rentals complained of.

Wherefore, the decision appealed from is hereby affirmed, with costs against the plaintiffs-appellants. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur. Reyes, J.B.L., and Endencia, JJ., took no part.

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