

JOSE DE BORJA, PLAINTIFF AND APPELLANT, VS. DEOGRACIAS V. VILLADOLID, DIRECTOR OF FISHERIES, DEFENDANT AND APPELLEE.

G.R. No. L-1897. November 28, 1949

Ponente: TORRES, J.

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TORRES, J.:

This is a complaint for declaratory relief filed with the Court of First Instance of Manila whereby plaintiff prayed the court to issue a declaratory judgment "declaring that the plaintiff is not required by law to secure a commercial fishing boat license," for the operation of his motor boats engaged in the transportation of fish.

Plaintiff alleges in his complaint that he "is a licensed fish peddler, * * * having paid the required license fee" to the Office of the Manila City Treasurer; that "as such fish peddler" he "is the owner of two motor boats, * * * with coastwise license issued by the Bureau of Customs * * * renewable every year;" that "said motor boats are used by him solely and exclusively in connection with his business of buying fish somewhere in Busuanga and other islands adjacent to the coast of Palawan and in Lubang, Batangas, for the purpose of selling said fish in Manila and that plaintiff has no intervention in the catching of fish, nor does he participate, as partner or in any other capacity, in the catch of the fishermen actually engaged in the catching of fish."

It appears that the defendant Deogracias V. Villadolid, as Director of the Bureau of Fisheries required the plaintiff, as such fish peddler, to procure a commercial fishing boat license as owner and operator of said motor boats. Plaintiff refused to secure, such license as demanded by the defendant, on the ground that he is not so required by Section 18 of Act No. 4003, as amended by Section 1 of Commonwealth Act No. 471, for the reason that he "is not operating his motor boats for the purpose of catching fish."

A motion to dismiss the complaint was granted by the lower court and a motion for reconsideration having been denied, this case has been brought here on appeal.

There is no controversy as to the facts. The issue presented for our determination is whether or not the plaintiff, by operating his motor boats for the purpose of transporting fish caught by other persons in the places mentioned in the complaint, and of bringing them to Manila for sale in the local market, is obliged to procure a commercial fishing boat license as owner and operator of his motor boats engaged for said purpose.

Section 17 of Act No. 4003 and section 18 of the same Act, as amended by section 1 of Commonwealth Act No. 471, read as follows:

"SEC. 17. License tax on operation of boat.—Unless provided with a license issued In accordance with the provisions of this Act, no person, association or corporation shall operate any vessel of more than three tons gross for the purpose of catching fish in the territorial waters of the Philippine Islands.

"SEC. 18. Annul fee on operation of boat.—The Secretary of Agriculture and Commerce is hereby empowered to issue to the proper parties licenses for fishing operation of powered vessels of more than three tons gross

and sailing or rowed vessels of more than three tons gross towed or operated in connection with power-propelled vessels in the territorial waters of the Philippines upon the payment of an annual fee of not less than two pesos nor more than two hundred pesos for every vessel subject to taxation under this Act: Provided, That failure of a licensee to secure a renewal or extension of his license and pay the annual fee on or before the last day of February of each year shall subject him to a surcharge of one hundred per centum based on the amount of the original fee, without prejudice to criminal proceedings against the delinquent licensee under the penal provisions of this Act: Provided, further, That all vessels less than three tons gross shall be licensed under the provisions of section seventy of this Act: And provided, also, That the catching of fish under the license issued shall be subject to the limitations, restrictions, and penalties Imposed by this Act." (As amended by sec. 1 of Com. Act No. 471.)

The Solicitor General, as counsel for defendant, relies on an opinion rendered by the Secretary of Justice on June 24, 1947, to the effect that vessels engaged in the transportation of fish, although not actually employed in the catching thereof, are, pursuant to Act No. 4003, required to pay the commercial fishing boat license.

We deem it unnecessary to delve now on the applicability of the ruling made by the Secretary of Justice to the case at bar. We are only concerned with the question whether or not the complaint for declaratory relief filed by plaintiff, and which the Court of First Instance of Manila dismissed for lack of merit, should be given due course in this Court.

It appears that the Director of the Bureau of Fisheries demanded that plaintiff pay the license provided in that Act and in view of the insistent refusal of plaintiff to comply with such demand, he finally turned over the case to the Office of the Fiscal of the City of Manila for appropriate action. However, plaintiff, upon learning of the step taken by the Director of the Bureau of Fisheries, countered by filing this complaint for declaratory relief, but this attitude of the plaintiff will only result in multiplicity of actions, which should always be avoided and the Rules of Court obviously seeks to prevent when, in Section 2 of Rule 66, it provides that the action for declaratory relief must be brought "before there has been a breach" of a contract or statute the construction of which is sought.

The facts in this case are so clear and unambiguous, that in the light of said Section 2 of Rule 66, there is nothing left for the courts to adjudicate or construe regarding the legal rights, duties and status of appellant in the premises. The general purpose of a declaratory judgment act is to provide for adjudication of the legal rights, duties, or status of the respective parties." (1 C.J.S., p. 1022; see also 16 Am. Jur., p. 284.)

It is quite clear that if appellant is prosecuted and found criminally liable, then the punishment prescribed by Section 78 of the law, will be imposed upon him; otherwise the charge will be dismissed. In either case, the action is, as stated by the Solicitor General, terminated with finality. It might be argued that no criminal action has as yet been presented. But the law does not require that there shall be an actual pending case. It is sufficient that there is a breach of the law, an actionable violation to bar a complaint for declaratory judgment.

Evidently, appellant would have the courts to prejudge the impending criminal action against him, without necessarily terminating the same.

The order of the Court of First Instance of Manila which dismissed the complaint herein is hereby affirmed.

With costs.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, and Montemayor, JJ., concur.

Reyes, J., concurs in the result.

TORRES, J.:

I hereby certify that Mr. Justice Feria voted in favor of this decision.

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