

CO KIAM AND LEE BAN, IN THEIR OWN BEHALF AND IN BEHALF OF ALL MEAT DEALERS SELLING OUTSIDE PUBLIC MARKETS, PLAINTIFFS AND APPELLEES, VS. THE CITY OF MANILA, THE MAYOR, AND THE C...

G.R. No. L-6762. February 28, 1955

Ponente: REYES, A., J.

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REYES, A., J.:

This is an action to annul Ordinance No. 3563 of the City of Manila, which was enacted in March, 1953, to ban the sale of fresh meat outside of the city markets.

Plaintiffs are Chinese citizens doing business in the city, selling both fresh and refrigerated meat in their stores outside the city markets. At the time the ordinance in question was enacted, there was already an ordinance—No. 3555—prohibiting the sale of fresh meat around the city markets within 200 meters from the boundaries thereof, and, to comply with that ordinance, plaintiffs had their stores located at more than that distance from any city market. But the new ordinance repeals that other ordinance and prohibits the sale of fresh meat anywhere outside of the city markets, thus making it illegal for plaintiffs to continue vending fresh meat in their aforementioned stores. Plaintiffs, therefore, in behalf of themselves and of others similarly situated, brought the present action in the Court of First Instance of Manila to have the new ordinance declared null and void, to enjoin its enforcement and to compel the Mayor to issue licenses permitting them to continue selling meat under the terms of the former ordinance.

Upholding the validity of Ordinance No. 3563, the city authorities resisted the action, and in this they were joined by the intervenors who, as vendors of fresh meat in the city market stalls or as members of trade organizations advocating nationalization of the retail trade, claim to have an interest in the litigation. After hearing, the lower court rendered a decision declaring the ordinance in question null and void, permanently enjoining its enforcement and commanding the Mayor to issue licenses to plaintiffs to enable them to "continue their business as vendors of fresh meat in the City of Manila outside the distance of two hundred (200) meters from any public market." From this decision, the city and the intervenors have appealed directly to this Court.

Section 1 of the challenged ordinance reads:

"Section 1. It shall be unlawful for any person to sell or offer for sale fresh meat outside of the city public markets: Provided, That this Ordinance shall not apply to cold storage meat imported from foreign countries or from any province, town, barrio or other place of the Philippines when such meat is duly marked and accompanied by a certificate showing that the animals furnishing the meat have been subject to an ante-mortem and post-mortem examination and found good for human consumption by a veterinarian of the Bureau of Animal Industry, and when said cold storage meat has been kept for not less than twenty days in any establishment duly equipped for cold storing meat and other food products."

On behalf of the defendants the ordinance is sought to be justified as a legitimate exercise of the police power to

meet the menace posed by the clandestine sale of meat from diseased animals. By confining the sale of meat within the city public markets, inspection is facilitated and trafficking in meat that is unfit for human consumption will be minimized if not totally suppressed. Very enlightening is the following letter of the City Health Officer to the mayor:

"His Honor, the Mayor
Manila

Sir:

"In compliance with your instructions given in your memorandum of even date, I have the honor to give hereunder comments on the sale of meat outside of public markets.

"No animal shall be slaughtered for food without ante-mortem examination. (Art. III, Sec. 4, Adm. Order No. 9, Dept. of Agriculture and Commerce). It is unlawful to sell or offer for sale the meat of animals not slaughtered in the City Slaughterhouse. (Ord. 3472). There are, however, many unscrupulous persons who, regardless of what happens to public health violate these regulations by slaughtering animals privately without the benefit of veterinary inspection and sell the meat thereof clandestinely to the public. Very often the 'hot' meat sold is unfit for human consumption. This clandestine business therefore poses a grave and serious threat to the public health. It thrives, in spite of the combined and unrelenting efforts of the Manila Police Department, the City Department of Finance and this Department to curb and suppress it, because of the circumstance that fresh meat is allowed to be sold anywhere in the city. The wide territory to be covered makes it extremely difficult for the few meat inspectors of this Office, the fewer policemen assigned to meat apprehension and the agents of the City Treasurer to combat this menace.

"If the sale of fresh meat were allowed only in specified places such as in public markets (as Ordinance No. 3563 would), it will be much easier to inspect and examine meat intended for human consumption. The chances of the public buying and consuming diseased meat will be greatly minimized if not totally eliminated. Public health will thereby be more thoroughly safeguarded and protected.

"On the other hand, as it is the case now, it is extremely difficult to examine and inspect all the meat sold by numerous establishments and persons in widely scattered places in the city. Under this circumstance, the chances are great for diseased and clandestine meat to find its way to the dining tables of city residents.

"In view of the foregoing, at least from the standpoint of public health, it would be a sound regulatory measure to allow the sale of fresh meat only in public markets. As already stated above, this will facilitate meat inspection work with the result that the health of the people will be more properly safeguarded. It will be easier to apprehend dealers on 'hot' or clandestine meat.

Very respectfully,

(Sgd.) M. C. ICASIANO
City Health Officer"

The City of Manila is expressly authorized by its charter (Republic Act 409) to establish, maintain and regulate public markets and slaughterhouses and prohibit or permit the establishment or operation thereof by private persons [section 18, paragraph (cc)]. It is also specifically empowered to regulate the sale of meat [section 18, paragraph (1)]. And in addition, it has the authority in the exercise of its police power under the general welfare clause [section 18, paragraph (kk)] "to enact all ordinances it may deem necessary and proper for the sanitation and safety, the furtherance of the prosperity, and the promotion of the morality, peace, good order, comfort, convenience, and general welfare of the city and its inhabitants."

In the case of *People vs. Montil*, 53 Phil., 580, this Court sustained the validity of a municipal ordinance

prohibiting the sale of pork outside of the public market. Again, in the case of *People vs. Sabarre, et al.*, 65 Phil., 684, this Court also upheld a municipal ordinance which "prohibits butchers and any other person from selling meat in any place except in the public market." Similar ordinances have likewise been declared valid in other jurisdictions. [*St. Martinville vs. Bugas*, 103 S. 761; *Morano vs. The Mayor*, 2 La. 217; *New Orleans vs. Faber*, 105 La. 212, and *Winnsboro vs. Smart*, 11 Rich. (S. C.) 551.] In the last case cited, it was held that under the power to make ordinances respecting markets, health and good order of the town, a municipal corporation may by ordinance prohibit the sale of butcher's meat within the corporate limits except at the public market and that such an ordinance is not in restraint of trade, but in regulation thereof, and does not violate the ordinary rights of the citizen.

The trial court declared the ordinance in question void on the theory that a legitimate business like that of selling fresh meat may be regulated but not entirely prohibited since the power to regulate does not include the power to prohibit. But it is obvious that the ordinance does not prohibit the business of vending fresh meat. What it does prohibit is the sale of that commodity outside of the public markets. In other words, the ordinance merely localizes the sale of fresh meat, confining the sale to the city public markets with a view to facilitating police inspection and supervision in the interest of public health.

It is urged on behalf of the plaintiffs-appellees that the enforcement of the ordinance would deprive them of their lawful occupation and means of livelihood because they can not rent stalls in the public markets. But it appears that plaintiffs are also dealers in refrigerated or cold storage meat, the sale of which outside the city markets under certain conditions is permitted. Plaintiffs may likewise sell other commodities or engage in other gainful pursuits. And surely, the mere fact that some individuals in the community may be deprived of their present business or a particular mode of earning a living can not prevent the exercise of the police power. As was said in a case, persons licensed to pursue occupations which may in the public need and interest be affected by the exercise of the police power embark in those occupations subject to the disadvantages which may result from the legal exercise of that power. (*City of New Orleans vs. Stafford*, 27 L. Ann. 417.)

We are not impressed by the plea that there are not enough facilities for the sale of fresh meat in the public markets of Manila, apprised as we are that the city already has 14 markets and 17 talipapas (temporary markets). Moreover, what would constitute sufficient facilities in relation to the ever-changing public need is more a matter for legislative determination. And considering that stalls in the public markets produce revenue in the form of rents paid by their occupants, it is illogical to suppose that the city government would not establish additional stalls should there be actual need for more.

Our conclusion is that the ordinance here in question is within the power of the City of Manila to enact. The decision appealed from is, therefore, reversed and plaintiffs' complaint dismissed, with costs.

Paras, C.J., Pablo, Bengzon, Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

Judgment reversed.

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