

CITY OF ILOILO, PLAINTIFF-APPELLEE, VS. VICENTE PINZON, DEFENDANT-APPELLANT.

G.R. No. L-7552. May 31, 1955

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

In 1945 the City of Iloilo enacted an Ordinance (No. 33, Ser. 1945), subjecting to "municipal license tax fee" certain businesses or occupations "of an unwholesome, obnoxious, offensive, unhygienic or dangerous character". Among these, "tenement houses (casas vecindad)" were subjected to a flat rate of P25.00 annually, whether in Iloilo, Jaro, La Paz, Arevalo, Molo or Mandurriao [Sched. B-l (m)].

In 1946, Ordinance No. 86, Ser. 1946, was enacted, amending the Schedule B-l-m of City Ordinance No. 33, as follows?

- (1) Tenement house (casa de vecindad)—P25 annually.
- (2) Tenement house, partly or wholly engaged or dedicated to business in the following streets: J.M. Basa, Iznart, and Aldeguer, — P12 per apartment.
- (3) Tenement house, partly or wholly engaged in business in any other streets of Iloilo City — P12 per apartment.

On July 12, 1948, the City filed action in the Court of First Instance to recover from Vicente Pinzon P262.50 plus 20% penalty, as municipal license tax duo under said Ordinances. The defendant pleaded that Ordinance No. 86, Ser. 1946, was invalid, unconstitutional, and in contravention of the limited power granted to the plaintiff City in its Charter.

Issues joined, the parties submitted the case on the following stipulation of facts:

- "1. That defendant is the owner of five tenement houses situated (1) house at Ortiz Street, (2) houses at General Blanco Street, (1) house at corner General Blanco and C.R. Mapa Streets, and (1) house at C.R. Mapa Street, all in the city of Iloilo, Philippines.
2. That defendant, Vicente Pinzon, under Ordinance No. 33, series of 1945, as amended by Ordinance No. 86, series of 1946, is delinquent in the payment of his municipal license tax in the sum of P262.50 including 20% penalty corresponding to the last quarter of 1946, the whole year of 1947 and the first two quarters of 1948, now due and owing to the plaintiff, the City of Iloilo, as provided for under Ordinance No. 33, Series of 1945, as amended by Ordinance No. 86, series of 1946, at the rate of P25.00 annually for every tenement house owned and operated by the defendant, Vicente Pinzon.
3. That defendant is a real estate dealer paying internal revenue taxes in the City of Iloilo as owner and maintainer of this tenement houses and until now continues to pay his internal revenue taxes.
4. That both plaintiff and defendant hereby stipulate and agree that defendant, Vicente Pinzon, is delinquent for municipal license taxes for his five tenement houses situated in the City of Iloilo, in the sum of P262.50

including 20% penalty corresponding to the last quarter of 1946, the whole year of 1947, up to and including the first and second quarters of 1948."

(Rec. on App. pp. 8-9).

The Court of First Instance hold that the ordinance in question was validly enacted under the general welfare clause and Section 21 (cc) of the city charter (c.s. 158, as amended), tenement houses or (casas de vecindad) being defined and Regulated by sections 130 to 144 of the Revised Ordinances for the city of Iloilo. In view thereof, the Court sentenced defendant Pinzon to pay the amounts sought to be collected by the City.

Within the period for appeal, Pinzon filed a verified motion for relief from the Stipulation of Facts and for a new trial, claiming that he did not have any tenement houses as defined in section 130 of the Revised Ordinances of Iloilo; that defendant's houses were each occupied by one family alone, and he offered to prove such fact; that said defendant had stipulated that he owned five (5) tenement houses in the belief that, as defined in the Merriam Webster Pocket Dictionary, "tenement houses" meant a "house rented or for rent". Upon objection by plaintiff's, counsel, the Court denied the motion for relief, and defendant Pinzon appealed to this Court,

Two issues are tendered in appellant's brief: (1) Whether or not the Court below erred in denying his motion to be relieved from the stipulation; and (2) whether Ordinance No. 86, Ser. 1946, of Iloilo is valid as imposing a license fee, or unconstitutional and void as levying a tax not authorized by law.

As to first issue: If it should be a fact, as appellant claims under oath and has offered to prove, that each of his houses are rented by one family alone, then he would not be liable to pay under the ordinance. "Casas de vecindad" are defined by section 130, of the Iloilo City Revised Ordinances, in the following terms:

"Art. 130. Casa de vecindad; definicion

Por casa de vecindad se entendera, (a) toda casa, edificio parte del mismo que se alquile or arriende para ser ocupado como casa, vivienda or residencia por cuatro o mas familias que vivan independientemente una de otra y que guisen o cocinen en dicha casa o edificio, o (b) toda casa, edificio o parte del mismo en que mas de tres familias vivan y cocinen por separado en un mismo piso, con derecho comun a los pasillos, escaleras, patios, baños, azoteas, inodoros y excusados".

(Rec. on Appeal, p. 12).

The proof offered by appellant would also constitute the best evidence of a mistake on his part in entering in the stipulation of facts, and therefore, of his right to be relieved therefrom. While the appellant, or his counsel, may not be altogether free from negligence or blame in entering into the stipulation without duly ascertaining the true meaning of the terms employed in it, such consideration should yield to the cardinal principle of justice that fees, taxes or imposts should not be exacted except from those really liable to pay them. It was, therefore, reversible error for the lower Court to deny appellant the opportunity to show his error and the non-applicability to him of the levies set by Ordinance No. 86, Ser. 1946. Specially is this the case where the new trial was asked in time and no additional prejudice is caused to the appellee, who may collect interest and penalties for the delay, if finally adjudged entitled to recover the imposts in question. A new trial is thus in order.

The foregoing conclusion renders it unnecessary for us to examine at this time the second issue (of unconstitutionality) posed by the appellant. "It is the general rule that a court will not pass upon a constitutional question and decide a statute to be invalid, unless a decision on that very point becomes necessary to the determination of the cause" (McGirr vs. Hamilton and Abreu, 30 Phil. 568; also 11 Amer. Jur. pp. 721 and 723).

Wherefore, the decision appealed from is set aside, and the records are ordered remanded to the Court of origin, with instructions to reopen the case for a new trial. The appellee not being at fault, nor to blame for the error of

the appellant, the latter shall pay the costs in this instance.

Pablo, Bengzon, Montemayor, Reyes, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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