

**VICENTE SAN BUENAVENTURA, PETITIONER AND APPELLEE, VS.
MUNICIPALITY OF SAN JOSE, CAMARINES SUR, MAXIMINO
ABRAGAN AND STANLEY PEÑA, RESPONDENTS AND APPELLANTS.**

G.R. No. L-19309. January 30, 1965

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal from the decision of the Court of First Instance of Camarines Sur in its Civil Case No. 4860.

The petitioner-appellee, Vicente San Buenaventura, filed in the Court of First Instance of Camarines Sur a petition for declaratory relief against the respondents-appellants, Municipality of San Jose, Camarines Sur; Maximino Abragan; and Stanley Pena; praying that Resolutions Nos. 75, 79 and 80, series of 1959, of the Municipal Council of said municipality be declared null and void and without legal effect.

On August 7, 1959 the Municipal Council of the respondent municipality held a public bidding for the lease of the fishery zones in the municipal water of said municipality. In that public bidding the respondent Maximino Abragan was declared the highest bidder of the privilege to catch "bangus" fry in fishery zones A, B and C, and forthwith he was awarded the lease of said fishery zones on the basis of his bid of P550.00 for those three fishing zones. Maximino Abragan immediately commenced to exercise his rights as lessee of the fishery zones A, B and C. On November 17, 1959 the municipal council of the respondent municipality of San Jose, acting on a letter of lessee Maximino Abragan dated September 10, 1959 requesting for the extension of the lease which was due to expire on December 31, 1959, passed Resolution No. 75 extending the lease to June 30, 1960, or an extension of six months. No public bidding of the privilege to catch "bangus" fry in the fishing zones A, B and C was held before said extension was granted. Having been elected municipal vice-mayor of the municipality of San Jose in the elections held on November 10, 1959, Maximino Abragan, on December 15, 1959, assigned his rights on the lease, as thus extended by Resolution No. 75, to the respondent Stanley Peña for a consideration of P550.00. On December 15, 1959 the municipal council of San Jose passed Resolution No. 79 approving the assignment of the lease rights of Maximino Abragan to Stanley Peña. On that same day, December 15, 1959, the municipal council of San Jose approved Resolution No. 80 extending the lease of the fishery zones A, B and C, then held by Stanley Peña, for a period of five years beginning July 1, 1960 on a yearly rental of P 550.00 payable within the first twenty-five days of July every fiscal year. On December 28, 1959 the Provincial Board of Camarines Sur, by resolution No. 1262, approved Resolutions Nos. 79 and 80 of the Municipal council of San Jose.

The petitioner-appellee, Vicente San Buenaventura, who is a resident of San Jose, Camarines Sur, and a person so interested in acquiring lease rights over fishery zones A, B and C through a public bidding, considering himself prejudiced because the lease on those fishing zones was by the respondent Municipal Council of San Jose without first holding a public bidding, filed a petition the Court of First Instance of Camarines Sur for declaratory relief.

The petitioner-appellee maintains that Resolution No. 75 is illegal because by that resolution the municipal council of San Jose granted an extension of the lease of fishery zones A, B and C to the respondent Maximino

Abragan without first calling for a public bidding.

Likewise, petitioner-appellee contends that Resolution No. 79 is null and void and of no legal effect because by that resolution the municipal council of San Jose approved the assignment to Stanley Peña of the rights of Maximino Abragan on the extended lease which was illegally granted under Resolution No. 75 above adverted to.

Finally, the petitioner-appellee contends that Resolution No. 80 is null and void because by that resolution the 'municipal council of San Jose granted an extension of the lease of fishery zones A, B and C to the respondent-appellant Stanly Pena for a period of five years "without public bidding" and without prior authority from the Provincial Board as required by law." Evidently the petitioner had in mind the provisions of Sections 2323 and 2319 of the Revised Administrative Code of 1917.

On the other hand, the respondents-appellants contend that Resolution No. 75 simply fixed the term of the lease of fishery zones A, B, and C that was awarded to Maximino Abragan "to a period not exceeding one year". that Resolution No. 79 simply confirmed or approved the assignment to Stanley Peña of the lease right granted to Maximino Abragan under Resolution No. 75; and that Resolution No. 80 simply extended the period of the lease ' already granted by virtue of Resolution No. 75 to a period of five years; that Resolutions Nos. 79 and 80 were duly approved by the Provincial Board of Camarines Sur; and that it was within the powers of the municipal council of San Jose to adopt those three resolutions.

The lower court, applying the provisions of Sections 2321, 2323 and 2319 of the Revised Administrative Code of 1917 as amended, rendered a decision declaring Resolutions Nos. 75 and 80, series of 1959, of the Municipal Council of San Jose, Camarines Sur null and void. The lower court found that Resolution No. 75 extended or prolonged the period of the lease of fishery zones A, B and C to Maxr imino Abragan after its expiration on Pecember 31, 1959, and in passing this resolution the municipal council of San Jose violated the provisions of Sections 2319 of the Administrative Code of 1917. The lower court also declared Resolution No. 80 of the Municipal Council of San Jose null and void because by that resolution the municipal council had extended the lease for a period of five years "without first the municipal council being authorized by the Provincial Board to do so as required by the provision of Section 2319 of the same Administrative Code." The lower court ordered the respondent municipality of San Jose to Place fishery zones A, B, and C to a new public bidding to determine the highest bidder who may be awarded the lease of those fishery zones. Resolution No. 79 was rendered of no legal effect upon the declaration that Resolution No. 75 was null and void.

From the decision of the lower court the respondents appealed to this Court and assigned three errors that were aUegedly committed by the lower court, as follows:

I

THE COURT A QUO ERRED IN HOLDING THAT THE EXPIRATION DATE OF THE AWARD IN FAVOR OF MAXIMINO ABRAGAN OF FISHERY ZONES A,B, AND C OF THE MUNICIPALITY OF SAN JOSE FOR CATCHING BANGUS FRY IS DECEMBER 31, 1959.

II

THE COURT A QUO ERRED IN NOT DISMISSING THE PETITIONER'S PETITION FOR NOT COMPLYING WITH THE PROVISIONS OF RULE 66, SECTION 5 OF THE RULES OF COURT.

III.

THE COURT A QUO ERRED IN NOT DISMISSING THE PETITIONER' PETITION FOR NOT COMPLYIMG WITH THE PROVISIONS OF RULE 66, SECTION 5 OF THE RULES OF COURT.

Resolution No. 75 reads as follows:

"RESOLUTION NO. 75

"The awardee, one Maximino Abragan of the fishery zones A, B, & C, solely for the purpose of catching bangus fry for propagation purposes, came and presented to this Hon. Body in session assembled, a letter from him, thru the kindness of his Attorney Armando B. Cledera, dated Sept. 10, 1959 and another letter dated Sept. 9, 1959 to his Atty. Armando B. Cledera, from the Director of Fishery, Quezon City, confirmed by the District Fishery Officer, copies of which are hereto attached, requesting extension or prolongation of the expiration date of the Awardee's Fishery areas which is due Dec. 31, 1959, to June 30, 1960, for the catching of bangus fry for propagation purposes is out of season as covered by the period of the lease awarded to one Maximino Abragan;

"Wherefore, on motion presented by councilor Marcelo Millon seconded by councilor Doroteo Totanes;

"Resolve, as it is hereby Resolved, to extend or prolong the expiration date of his lease, the fishing zones, A, B, & C which is due Dec. 31, 1959 to June 30, 1960 for reasons stated in the awardee's letter attached hereto;

"Resolved further, that certified copy of this resolution be furnished Maximino Abragan, San Jose, Camarines Sur, and the Municipal Treasurer, San Jose, Camarines Sur for their information and guidance." (Italics supplied)

It can be gathered from the wording of Resolution No. 75, above quoted, that the lease right of Maximino Abragan on fishery zones A, B, and C which was awarded to him on August 7, 1959 was due to expire on December 31, 1959, and that without said Abragan being first declared the highest bidder in another public bidding before the expiration of his lease on December 31, 1959 the Municipal Council granted him an extension of the lease to June 30, 1960, or an additional period of six months. Resolution No. 80 reads as follows:

RESOLUTION NO. 80

Whereas, prior to the bidding of the fishery zones A, B, & C, solely for catching bangus fry for preparation purposes, one Stanley Peña has applied for those areas mentioned above, to lease same from the Municipal Government of San Jose;

Whereas, Stanley Peña is the present occupant of the above-mentioned zones exclusively for catching bangus fry, for propagation purposes, evidence by a certain public document executed by the awardee, Maximino Abragan, in favor of Stanley Peña;

Whereas, as the present occupant of the fishery zones A, B, & C, solely for catching bangus fry, for propagation purposes, the said occupant is very desirous to lease the above-mentioned for 25 years at P550.00 a year to commence on July 1, 1960 and so on;

Whereas, it is the wise opinion of this Hon. Body to bolster always the revenue of taxation for the upliftment of the Municipal Government of San Jose in particular and the entire Municipality in general.

Wherefore, on motion of councilor Tomas O. Torres, seconded by councilor Jovito P. Dizon;

Resolve, as it is hereby resolved, to grant the desire of the present occupant, Stanley Pena, to lease the fishing zones A, B, & C, solely for catching bangus fry, for propagation purposes for P550.00 yearly, for five (5) years, payable on the first twenty days of July of every fiscal year.

Resolved further, that copies of this resolution be furnished Stanley Peña and the Municipal Treasurer, San Jose, Camarines Sur, for their information and guidance."

We agree with the ruling of the trial court that Reso-Nos. 75 and 80, series of 1959, of the Municipal Council of San Jose, Camarines Sur, are null and void because they are not in accordance with law. The law applicable, (however, is not the provisions of sections 2321, 2 and 2319 of the Revised Administrative Code of , as construed by the lower court, but the provisions of Sections 67 and 69 of Oct No. 4003 (Fisheries Act) as amended by Commonwealth Acts Nos. 115 and 471. The three sections of the Revised Administrative Code of 1917, herein mentioned, have been modified or amended by the provisions of Sections 67 and 69 of Act 4003 as amended.

The pertinent provisions of sections 2321, 2323 and 2319, which were construed and applied by the trial court in its decision, are as follows:

"Section 2321. Grant of Fishery.—A municipal council shall have authority, for purposes of profit, to grant the exclusive privilege of fishery or right to conduct a fish-breeding ground within any definite portion, or area, of the municipal waters.

"Section 2323. Restriction upon letting of fishery to private party.—When fishery or fish-breeding ground is granted to a private party as hereinabove authorized the same shall be to the highest bidder in the manner and subject to the conditions prescribed in section two thousand three hundred and nineteen hereof."

"Section 2319. Letting of municipal ferry, market or slaughter house to highest bidder.—When any ferry, market, or slaughterhouse belonging to a municipality is to be let to a private party, the same shall, unless otherwise directed by the Department Head, be let to the highest and best bidder for the period of one year, or, upon the previous approval of the provincial board, for a longer period not exceeding five years, under such conditions as shall be prescribed by the Department Head."

We agree with the finding of the lower court that the award of the lease of fishery privilege to respondent Maximino Abragan on August 7, 1959 was for a period that was fixed to terminate on December 31, 1959. It is clearly shown in Resolution No. 75 that Maximino Abragan had asked for extension of the lease to June 30, 1960 because the lease would terminate on December 31, 1959. We also agree with the trial court in its ruling that upon the termination of the lease on December 31, 1959, the municipal council of San Jose could not extend the lease without first conducting a public bidding to determine the highest bidder as required by law.

We, likewise agree with the ruling of the trial court that the respondent municipal council could not extend the lease of fishery privileges to Stanley Peña, who was the assignee of the lease rights of the original lessee, Maximino Abragan, because the lease of fishery privileges for a period of five years must also be based on a prior public bidding to determine the highest bidder. No public bidding was held before the lease to Stanley Peña was extended for five years by the municipal council of San Jose under its Resolution No. 80. The act of the municipal council of San Jose in extending the lease to Stanley Peña for five years was tantamount to granting a new lease for a period of five years. Under the law, the municipal council may lease a fishery zone for a period not exceeding five years without prior approval of the Provincial Board, but the basis of said lease must be a public bidding and the fishery must be let to the highest bidder.

As we have said, the law applicable is the provisions of Sections 67 and 69 of Act 4003 as amended by Commonwealth Acts Nos. 115 and 471, the pertinent portions of which provisions are as follows:

"Sec. 67. Grant of fishery.—A municipal council shall have authority, to grant the exclusive privilege of erecting: fish corrals, or operating fishponds, or taking or catching 'bangus' fry, known as 'kawag-kawag,' or fry of other species for propagation, within any definite portion, or area, of the municipal water."

"Sec. 69. Restriction upon letting of fishery to private party.— When the privilege to erect fish corrals, construct or operate fishponds, or oyster culture beds, or take or catch 'bangus' fry, known as 'kawag-kawag' or of other species is granted to a private party as hereinabove authorized, the same shall be let to the highest bidder for a

period not exceeding five years, or, upon the previous approval of the provincial board, for a period not exceeding ten years; or upon the previous approval of the Secretary of Agriculture and (Commerce) Natural Resources for a longer period but not exceeding twenty years; all these grants shall be under such conditions as shall be prescribed by the Secretary of Agriculture and (Commerce) Natural Resources."

It will thus be seen that pursuant to the above-quoted provisions of Section 69 of Act No. 4003, as amended, the Municipal Council, even without previous approval of the Provincial Board, may lease the privilege to catch 'bangus' fry for a period not exceeding five years, but this lease must be granted to the highest bidder after a public bidding. The public bidding is necessarily called for the purpose of determining the highest bidder of a specific fishery privilege within a definite portion of the municipal waters, and within a specific period, mentioned in the call for bids.

In the case now before Us, when the respondent Maximino Abragan was declared the highest bidder of fishing zones A, B, and C on August 7, 1959, the Municipal Council of San Jose was perfectly within its power to lease to him the privilege to catch 'bangus' fry within the said fishing zones for a period not exceeding five years. Evidently the lease granted to Maximino Abragan was for a period that would terminate on December 31, 1959. That must be the period of the lease for which Maximino Abragan offered his bid. The action of the Municipal Council in fixing the period of lease from August 7 to December 31, 1959, was within its powers—that is, to grant a lease of fishery privilege for a period not exceeding five years. Presumably the bidding that was held on August 7, 1959 was for a privilege to catch 'bangus' fry only for a period from August 7, 1959, otherwise the Council would have fixed a longer period if the bidding held on that day was intended to lease the privilege for a period that would extend beyond December 31, 1959. Certainly the lessee, Maximino Abragan, would have insisted on a period beyond December 31, 1959 at the time the lease was awarded to him if the bidding was for a privilege that would cover a period beyond December 31, 1959. When the Municipal Council passed Resolution No. 75 extending the period of the lease for six months after the expiration of the period that was originally fixed, the act of the Council was tantamount to a grant of a new lease for a period that did not exceed five years, but this lease should have been made on the basis of a public bidding first held, where that period was so specified in the call for bids, and where Maximino Abragan was declared the highest bidder.

The extension of six months of the lease to Maximino Abragan under Resolution No. 75 being null and void, it necessarily follows that Resolution No. 79 of the municipal council approving the assignment of said lease by Maximino Abragan to Stanley Peña was also null and void and of no effect.

Again, when the Municipal Council of San Jose approved Resolution No. 80 extending the lease to Stanley Peña for a period of five years without first conducting a public bidding to determine the highest bidder, the municipal council had violated the provisions of Section 69 of Act 4003 as amended by Commonwealth Acts Nos. 115 and 471. It is true that under the provisions of Sec. 69 of Act 4003, as amended, the municipal council may lease fishery privileges for a period not exceeding five years without the previous approval of the Provincial Board, but this lease that the municipal council may grant must be based on a prior public bidding, and the lease must be granted to the highest bidder. The records show that before the Municipal Council of San Jose approved Resolution No. 80, no public bidding for the lease of fishery zones A, B, and C was held. As a matter of fact, Stanley Peña was not a bidder in the public bidding of said fishery zones that was held on August 7, 1959. Resolution No. 80 simply states that Stanley Peña had applied to lease those three fishery zones.

This Court had occasion to pass upon a question strikingly similar to the one involved in the present case. In the case of *Bartolome San Diego vs. The Municipality of Naujan, Province of Oriental Mindoro*, 107 Phil., 118, the Municipal Council of Naujan, after a public bidding, by Resolution No. 46, series of 1947, awarded the lease of fishery privileges within its municipal waters to Bartolome San Diego for a period of five years from January 1,

1948 to December 31, 1952. The lessee requested for a five-year extension of the original lease period. On December 1, 1951 the Municipal Council of Naujan adopted Resolution No. 222, series of 1951, extending the lease for another period of five years beginning January 1, 1952, and the Provincial Board of Mindoro approved said resolution. On December 29, 1951 the said Municipal Council approved resolution No. 229 confirming the lease contract executed pursuant to Resolution No. 222. Those resolution Nos. 222 and 229 were approved by the members of the Municipal Council of Naujan whose term of office would expire on December 31, 1951. On January 2, 1952 the Municipal Council of Naujan, composed of a new set of members, adopted Resolution No. 3, series of 1952, revoking Resolution No. 222; and on the same date the said new Municipal Council passed Resolution No. 11 revoking Resolution No. 229 of the old Municipal Council. The lessee, Bartolome San Diego, requested for reconsideration and recall of Resolution No. 3 on the ground, among others, that it violated the contract executed between him and the municipality, and, therefore, it was contrary to Article III, section 1, clause 10 of the Constitution. Upon refusal of the Municipal Council of Naujan to reconsider its Resolution No. 3, Bartolome San Diego brought an action in court to declare null and void, for being unconstitutional said Resolution, No. 3. It was the contention of the Municipal Council of Naujan that in passing Resolution No. 3 they sought to revoke Resolution No. 222 which was illegal, because the latter resolution granted to Bartolome San Diego an extension for a period of five years of the lease of fishery privileges without first holding a public bidding as required by law. This Court, in upholding the validity of Resolution No. 3 of the Municipality of Naujan held:

"For clarity, we have to reiterate that Resolution 222, series of 1951, is an approval of plaintiff-appellee's petition for extension for another five year, effective January 1, 1952, of his five-year lease concession granted under Resolution 46, series of 1917. Said Resolution 222, however, was revoked by the municipal council under a new set of members in its Resolution 3, series of 1952, for the reason, among others, that the extension was illegal it having been granted without competitive public bidding. It is this last-mentioned resolution that has been declared null and void by the trial court.

"The law (Sec. 2323 of the Revised Administrative Code requires that when the exclusive privilege of fishery or the right to conduct a fish-breeding ground is granted to a private party, the same shall be let to the highest bidder in the same manner as is being done in exploiting a ferry, a market or a slaughterhouse belonging to the municipality (See Municipality of San Luis vs. Ventura, et al., 56 Phil 329). The requirement of competitive bidding is for the purpose of inviting competition and to guard against favoritism, fraud and corruption in the letting of fishery privileges (See 3 McQuillin, Municipal Corporations, 2nd Ed. p., 1170; Harles Caslight Co. vs. New York, 33 N.Y. 309; and 2 Dillon, Municipal Corporations p. 1219).

"There is no doubt that the original lease contract in this case was awarded to the highest bidder, but the reduction of the rental and the extension of the term of the lease appear to have been granted without previous public bidding. In the case of Caltex (Phil.), Inc., et al. vs. Delgado Bros. Inc., et al., 96 Phil. 368 December 29, 1954, the amendment to an arrastre contract was declared null and void on the ground that it was made without previous public bidding. In so declaring, this Court has adopted the following opinion:

"* * * it is the opinion of the Court that the said agreement executed and entered into without previous public bidding, is null and void, and cannot adversely affect the rights of third parties * * * and of the public in general. The Court agrees with the contention, of counsel for the plaintiffs that the due execution of a contract after public bidding is a limitation upon the right of the contracting parties to alter or amend it without another public bidding, for otherwise what would a public bidding be good for if after the execution of a contract after public bidding, the contracting parties may alter or amend the contract or even cancel it, at their will? Public biddings are held for the protection of the public, and to give the public the best possible advantages by means of open, competition between the bidders, He who bids or offers the best terms is awarded the contract subject of the bid, and it is obvious that such protection and best possible advantages to the public will disappear if the parties to a contract executed after public bidding may alter or amend it without another previous public

bidding.'

"While in that case we ruled that although the 'arrastre contract' therein questioned authorized the parties to alter or amend any of the terms thereof, such authority must be considered as being subject to the requirement of previous public bidding, a formality observed before the original contract was awarded, with more reason should the rule requiring such public bidding be strictly applied in the instant case where no such authority to alter or amend the terms of the contract was reserved.

"Furthermore, it has been ruled that statutes requiring public bidding apply to amendments of any contract already executed in compliance with the law where such amendments alter the original contract in some vital and essential particular (See *More vs. Boston*, 148 N. E. 813; 253 Mass. 247). Inasmuch as the period in the lease is a vital and essential particular to the contract, we believe that the extension of the lease period in this case, which was granted without the essential requisite of public bidding, is not in accordance with law. And it follows that Resolution 222, series of 1051, and the contract authorized thereby, extending the original five-year lease to another five years are null and void as contrary to law and public policy."

It may be noted that this Court applied the provisions of Section 2323 of the Revised Administrative Code of 1917 in the foregoing decision. We believe, however, that the requirement of public bidding as contemplated in said Section 2323 of the Revised Administrative Code is the same as the one contemplated in Section 69 of Act 4003 as amended by Commonwealth Acts Nos. 115 and 471.

It may thus be restated that the law that governs the award of fishery privileges in municipal waters is the provisions of Section 67 and 69 of Act No. 4003, as amended by Commonwealth Acts Nos. 115 and 471. The provisions of Sections 2321, 2323 and 2319 of the Revised Administrative Code of 1917 have thereby been modified by Act 4003, as amended. Under the applicable law the Municipal Council may lease fishery privileges for a period not exceeding five years to the highest bidder in a public bidding held, where the call for bid had specified the period for the lease. The Municipal Council cannot extend the period of lease once it had been fixed on the basis of the period provided in the call for bids. In the lease of fishery privileges for a period not exceeding five years the previous approval of the provincial Board is not necessary. If the lease is for a period of more than five years, but not exceeding ten years, the previous approval of the Provincial Board is necessary. If the lease is for a period exceeding ten years, but not more than twenty years, the prior approval of the Secretary of Agriculture and Natural Resources is necessary. In all cases the lease must be based on a competitive public bidding.

In their third assignment of error the respondent-appellants contend that the lower court erred in not dismissing the petitioner's petition for not complying with the provisions of Section 5, Rule 66, of the Rules of Court, which provides as follows:

"Sec. 5. Municipal ordinance.—In any action involving the validity of a municipal ordinance the provincial fiscal shall be similarly notified and entitled to be heard; and if the ordinance is alleged to be unconstitutional the Solicitor-General shall also be notified and entitled to be heard."

The respondents-appellants point out that the petitioner did not notify the Provincial Fiscal about the Petition that he filed in the present case, questioning the validity of Resolutions Nos. 75, 79 and 86 of the Municipal Council of San Jose. Camarines Sur, and the petitioner-appellee, therefore, had not complied with the provision of Sec. 5 of Rule 66 of the Rules of Court (now Sec. 4 of Rule 64 of the Revised Rules of Court). It is the contention of the respondents-appellants that the lower court should have dismissed the petition because of the failure of the petitioner-appellee to comply with the above-quoted provision of Sec 5 of Rule 66 of the Rules of Court.

The respondent-appellants are raising this question for the first time in the present appeal. In the court below they filed a motion to dismiss the petition, but this failure on the part of the petitioner to comply with the above-quoted

provision of Sec. 5 of Rule 66 was not made a ground for the dismissal of the petition. It is too late now to raise this question at the present stage of the proceedings. We believe that the requirement regarding notification to the Provincial Fiscal of the pendency of an action involving the validity of a municipal ordinance, as provided in Sec. 5, Rule 66 of the Rules of Court (now Sec. 4 of Rule 64 of the Revised Rules of Court), is not jurisdictional; and failure on the part of the petitioner to so notify the Provincial Fiscal will not be a sufficient ground to throw the case out of court. We believe that the purpose of the above-quoted rule is simply to give the Provincial Fiscal, who is the legal officer of the local governments, a chance to participate in the deliberation to determine the validity of a questioned municipal ordinance before the competent court. If it appears, however, that the ordinance in question is patently illegal, as in the present case, and the matter had already been passed upon by a competent court, the requirements of Section 5 of Rule 66 of the Rules of Court (now Section 4 of Rule 64 of the Revised Rules of Court) may be dispensed with.

In view of the foregoing, the decision of the lower court, declaring Resolutions Nos. 75 and 80, series of 1959, of the Municipal Council of San Jose, Camarines Sur, null and void, is affirmed. Resolution No. 79, series of 1959, of said Municipal Council is likewise declared null and void and of no legal effect. The respondents-appellants must pay the costs of these proceedings.

Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal and Bengzon, J. P., JJ., concur.

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