

**JUANITA MIRANDA, FILOMENA ALICDAN, LUISA OLIVEROS,
LUCIANA EUGENIO, ILUMINADA ISLA, DIONISA SIDEÑO, CRISTETA
RIVERA, ELISA MENDIOLA, SOCORRO FAJARDO, CONCHITA
SAGUINSIN, VICENTE...**

G.R. No. L-7094. April 16, 1955

Ponente: BENGZON, J.

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BENGZON, J.:

In June 1953, the respondents Ong Lian et al. filed in the Court of First Instance of Manila, presided by the respondent judge, a petition to compel the Mayor of the City to issue to them licenses to sell fresh meat in their respective stores located within a radius of 200 meters from the Arraque Market, a public market of the City. (Civil Case No. 19844.)

Ordinance No. 3563 prohibited the sale of fresh meat anywhere outside the public markets of the City. However, respondents Ong Lian et al. contended that said ordinance was null and void and asked for appropriate remedies, they being fresh meat dealers outside of public markets who had been granted licenses in 1952 prior to the approval of Ordinance No. 3563. Respondents Ong Lian et al. also applied for a preliminary mandatory injunction to require the Mayor to renew their licenses. There was another ordinance No. 3555, repealed by Ordinance No. 3563; and the City Fiscal, opposing Ong Lian's petition invoked Ordinance No. 3555, supposing *arguendo* that Ordinance No. 3563 was void. Ordinance No. 3555 prohibited the sale of fresh meat within two hundred meters from the boundary of any public market in Manila. Ong Lian et al. also maintained the proposition that Ordinance No. 3555 had no legal force.

Advised that, in Civil Case No. 19227, entitled *Co Kiam vs. City of Manila*, another judge of the same court had declared Ordinance No. 3563 null and void, and believing that Ordinance No. 3555, had ceased to operate as alleged by Ong Lian et al., the respondent judge in an order dated June 18, 1953, required the officers of the city to renew their permits and licenses as meat dealers. Petitions to reconsider failed.

Hence this action for certiorari instituted here by stallholders and sellers of fresh meat in the Arraque Market. Its purpose was to seek nullification of the writ of preliminary mandatory injunction issued by the respondent judge on June 18, 1953. Upon their request and after hearing both sides on oral argument this court issued on December 7, 1953 a writ of preliminary injunction to prevent the carrying out of respondent judge's writ as aforesaid.

Petitioners subsequently informed this Court that the respondent judge had decided the case on the merits, in favor of Ong Lian et al., and had ordered on February 4, 1954, execution of his judgment pending appeal. Wherefore, a resolution was approved here on February 9, 1954 setting aside said order of February of the respondent judge, and ordering the latter "to desist from taking any other steps leading to the execution of the judgment rendered by him until further orders from this Court".

About a month ago, on February 28, 1955, the validity and constitutionality of Ordinance No. 3563 was upheld in

an opinion penned by Mr. Justice Alex. Reyes deciding, on appeal, the same Civil Case No. 19227 of Manila, Co. Kiam vs. City of Manila, hereinbefore mentioned (supra, p. 649). The motion to reconsider such decision was denied a few days ago.

Which means that respondents Ong Lian et al. may not be given licenses to sell fresh meat, inasmuch as Ordinance No. 3563 prohibits the sale of fresh meat anywhere outside of public markets of the City.

Which also means that this Court's resolution of February 9, 1954 requiring the respondent to desist from taking any other steps leading to the execution of his decision in the Civil Case No. 19844, Ong Lian et al. vs. Municipal Board of Manila et al should be and is hereby made permanent and absolute.

The respondents, except the judge, will pay the costs of this litigation. So ordered.

Pablo, Acting C. J., Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Reyes, J. B. L., JJ., concur.

Petition granted.

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