

JULIA LORENZO AND MARIANO ESTRELLA, PLAINTIFFS AND APPELLANTS, VS. THE MUNICIPAL COUNCIL OF NAIC, CAVITE AND PILAR DINIO, DEFENDANTS AND APPELLEES.

G.R. No. L-2652. December 07, 1949

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This case is here on appeal by the plaintiffs Julia Lorenzo and her husband Mariano Estrella from a decision of the Court of First Instance of Cavite, dismissing their complaint against the Municipal Council of Naic, Cavite and Pilar Dinio. For purposes of the present decision, the following facts gathered from the record may be briefly stated.

Prior to February 15, 1948, it seems that the municipal market of Naic, Cavite was conducted and maintained without much attention as to the order and classification of the business done in it by the vendors and stallholders, and that furthermore, there was lack of light and ventilation in said market. To remedy this situation the municipal council of that town passed Resolution No. 20 on February 15, 1948, rearranging, zoning and otherwise putting in proper order the mercantile transactions and the market space according to a scheme or plan. This is partly stated and described in paragraph 7 of said Resolution No. 20 which reads as follows:

"7. That, for, purposes of unity, better zoning system and for aesthetic reasons, all market stores and stalls are hereunder classified as regards the kind of goods they are to sell or dispose to the public, and that, no store or stall should be allowed to sell products or goods other than that specifically provided."

All the stores and stalls previously maintained in front, of the market building up to the fence were ordered removed and the space declared "off limits," the owners of said stores and stalls to be given spaces within the market proper. The scheme was graphically embodied in a plan prepared by the District Engineer and amended by the municipal council, and is now marked as Exhibit D.

Prior to the rearrangement and re-planning of the Naic market, Julia Lorenzo, the appellant herein, was occupying a stall or market space, which is the very same space appearing as lot No. 4 (with a circle in red pencil), east block, center column A, in plan Exhibit D, and now occupied by her. R. Manalaysay who previously occupied a space or stall in the portion declared "off limits," and because of the strategic position of said stall, was awarded a corner lot, lot No. 2 (with a circle in red pencil), east block, center column A, in the same Exhibit D. Pilar Dinio who was formerly occupying a space outside of the market was given lot No. 1 (with a circle in red pencil), east block, center column B, in the same exhibit. For reasons not known and not material to this case, and through a private agreement Manalaysay exchanged his lot No. 2 for lot No. 1 of Pilar Dinio. The award of lot No. 2 to R. Manalaysay, and his exchange of said lot for lot No. 1 of Pilar was protested by Julia, but the municipal council in its. Resolution No. 28, overruled the protest. As a result, Pilar Dinio is now occupying lot No. 2 while R. Manalaysay occupies lot No. 1.

It should be stated in this connection so as to fully understand the reason why Julia brought this action, that before

the zoning and rearrangement of the Naic market as per Resolution No. 20, the space occupied by Julia which is now lot No. 4 in Exhibit D was a corner lot or stall, lot No. 2 then being used as an alley. As a result of the rearrangement, Julia's lot No. 4 is no longer a corner lot, and according to her testimony, her daily sales had diminished by one-half, thereby materially reducing her gross income and her profits. Naturally, Julia is interested in lot No. 2 and she wants to have it or at least have a chance to get it.

Julia contends that the action of the Municipal Council of Naic in awarding lot No. 2 to R. Manalaysay was illegal and unconstitutional because it was not done thru public bidding as should have been done, and that furthermore, Resolution No. 28 of the same council approving the barter or exchange of lots 1 and 2 between Manalaysay and Pilar was equally illegal.

The trial court invoking section 2242 (q) of the Revised Administrative Code which imposes upon a municipal council the duty to establish or authorize the establishment of markets and inspect and regulate the use of the same, held that the municipal council of Naic was authorized to make the award of lot No. 2 to R. Manalaysay, which award the plaintiff could not very well question in the present case inasmuch as she did not include Manalaysay as party-defendant; and that furthermore, the alleged illegal exchange of lots 1 and 2 was clearly a private arrangement or agreement which concerns only the parties thereto. So, the trial court dismissed the complaint.

In her appeal Julia maintains that the trial court erred in not holding Resolution No. 20 illegal in so far as it approved the awarding of lot No. 2 to R. Manalaysay without any public bidding and without giving any chance to her to lease said lot, and that the lower court also erred in not holding that Pilar Dinio is illegally occupying lot No. 2 for the reason that the exchange made between her and Manalaysay was illegal.

The appellant does not question the right of the municipal council to dispose of a market space under the provisions of section 2242 (q) of the Revised Administrative Code. She insists, however, that under section 2319 of the same Code, a space in a municipal market should be let or awarded to the highest bidder. Said section reads as follows:

"SEC. 2319. Letting of municipal ferry, market, or slaughterhouse 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 cannot agree with appellant in her interpretation of the above-quoted section. Said section clearly refers to the letting or leasing of a ferry, market or slaughterhouse in its entirety, to a private party to be operated by the latter. For instance, when a municipality does not wish to operate a slaughterhouse by administration but prefers to have a private party or entity operate the same for a fixed sum, for a period of say one year, under certain conditions, the Council calls for bidders and then makes the award to the best and most responsible bidder. The same thing is done as regards a municipal market or ferry. But what is meant is the whole ferry, the whole market or the entire slaughterhouse and not any portion or any fractional part of the space therein. When a municipality itself administers a market, then under its authority to regulate the use thereof, it may distribute and award spaces therein to be occupied by stores and stalls under conditions and regulations it may impose, but not by public bidding. Otherwise, with the great number of stalls, numbering hundreds or even thousands, depending upon the size of the market, some stalls or spaces measuring only by a few square feet or square meters, public bidding would entail too much unnecessary proceedings and would result in unnecessary rivalry and competition between numerous parties and also differences in rate and amount of rent paid for the stalls instead of a simple uniform rate based only on the space occupied. It is, therefore, clear that on legal grounds the stand taken by the appellant

is untenable.

But even in the realm of equity we find no reason to support the position taken by the appellant Julia. According to the evidence, the space previously occupied by her before the passage of Resolution No. 20 is the very same space, lot No. 4 in Exhibit D occupied by her now. It is true that in addition to the said lot No. 4, she occupied a small space shown by the narrow strip about half a meter wide and 4-1/2 meters long shown on Exhibit D, lying between lots Nos. 2 and 4 and bearing the name of Julia Lorenzo. But this space did not really belong to the stall previously rented by Julia. It was a part of a vacant space or passageway which once in a while Julia used to occupy with the tolerance of the municipality and for which she used to pay P0.20 a day on ordinary days and P0.50 a day on market days. It is to be understood that she had no established right to this small space. It was never awarded to her as part of her stall; in fact it was part of the alley or passageway used by the public. But through tolerance, she was allowed to occupy it occasionally paying the corresponding toll or rent on the days she used the same. That her lot No. 4, because of the new arrangement is no longer a corner lot, is a circumstance which cannot be remedied legally. The municipal council was perfectly warranted in arranging the stores, stalls and alleys in the market place. A stallholder acquires no vested right to a situation or status wherein the stall she applies for and is given to her happens to be on a corner. That situation is subject to change, because the council does not guarantee its permanence.

As to R. Manalaysay, it is sufficient to say that in the opinion of the municipal council in order to Compensate, him for the loss of his old stall strategically located near the gate of the market and which was condemned as "off limits" he was awarded lot No. 2. The appellant has no reason to complain of this award to R. Manalaysay. That is left entirely to the sound discretion of the municipal council. Neither can she question the private agreement or arrangement of exchange or barter made between R. Manalaysay and Pilar Dinio.

Finding no reversible error in the decision appealed from, the same is hereby affirmed with costs against the appellants.

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

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