

THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. FRANCISCO REYES, DEFENDANT AND APPELLANT.*G.R. No.L-8557. September 28, 1956*

Ponente: PARAS, C.J.

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PARAS, C.J.:

The defendant has appealed from a decision of the Court of First Instance of Manila sentencing him to pay to the plaintiff the sum of P1,339.90, with legal interest from the date of the filing of the complaint and with costs. The amount represents license fees and Mayor's permit fees due from the defendant on his retail sales of flour under the provisions of Ordinance No. 3364.

The appellant insists that the promulgation of Executive Order No. 305 and passage of Republic Acts Nos. 426 and 650 rendered Ordinance No. 3364 oppressive and unenforceable. He expands his view by alleging that this ordinance was conceived when flour was free commodity and could be imported by anyone, unlimited as to quantity or time; when it could be sold to anybody, also unlimited as to price or time; whereas, in view of the passage of Republic Acts Nos. 426 and 650 and the promulgation of Executive Order No. 305, flour is controlled, an importer has to secure an import license, the importation is made in the name of the Government and limited as to quantity, and there is control even as to whom to sell and as to the selling price.

Upon the other hand, it is contended for the appellee that the circumstances mentioned by the appellant are immaterial, the principal consideration being that there is nothing in Republic Acts Nos. 426 and 650 or in Executive Order No. 305 which suspends or repeals Ordinance No. 3364.

We are of the opinion that the appealed decision is correct. Republic Act No. 426, as amended by Republic Act No. 650, merely enumerates what commodities are controlled, regulates importation, creates the Import Control Office, and provides penalty for violations of its provisions. Executive Order No. 305 merely created the PRISCO and dissolved the PRATRA and the NARIC. There is absolutely nothing in said Executive Order or acts which suspends or repeals the provisions of Ordinance No. 3364. Apart from the rules that repeal by implication is not favored, it is quite clear that the Acts and Executive Order in question may be enforced consistently with Ordinance No. 3364. The ordinance impose a fee on merchants and dealers who sell goods in retail, based on the amount of sales and regardless of profits, with the result that it cannot be said to be inconsistent with Republic Acts Nos. 426 and 650 which merely impose controls on certain commodities. In making reference to the circumstances affecting a retail flour dealer, the appellant undoubtedly wishes to convey the fact that as flour is now a controlled commodity, his profits will necessarily be diminished, if not altogether eliminated. The point is again immaterial, considering that the lawmakers, in enacting Republic Acts Nos. 426 and 650, must be deemed to have taken into account the existing conditions, and if repeal or suspension of any law or ordinance is now in order, that function belongs to the legislative branch of the Government. At any rate, it is admitted that, in the fixing of the selling and buying prices of flour as controlled commodity, the profit is usually certain and pro-determined, with the result that the enforcement of the ordinance in question cannot be said to be oppressive and conscienceless.

Wherefore, the appealed decision is affirmed, with costs against appellant.

Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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