

VICENTA FELIX VDA. DE SALGADO ET AL., PETITIONERS; THE ARANQUE MARKET EXTENSION CHINESE VENDORS ASSOCIATION, PETITIONER AND APPELLANT, VS. MANUEL DE LA FUENTE, MAYOR OF MANILA, ...

G.R. No. L-2127. September 20, 1950

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PER CURIAM:

This is a petition for prohibition, challenging the constitutionality and validity of Republic Act No. 37 and Municipal Ordinance No. 3051, and seeking to permanently enjoin respondents from enforcing said Republic Act and city ordinance.

It appears that the petitioner is an association composed of market stallholders, most of whom are Chinese, engaged in the business of selling fresh foodstuff at the Aranque Market Extension. By virtue of a contract of lease, petitioner erected a market building on the private property of deceased Julian Salgado, which is immediately adjoining the Aranque Market owned by the City of Manila. This market has been known as the Aranque (Dulongbayan) Market Extension. The operation of said market was licensed by the city in May, 1946, and was operated under Its supervision and control, in accordance with the ordinances, rules and regulations governing public markets. Sometime in January, 1948, petitioner's Chinese members were served by the City Treasurer with notices to vacate the market stalls held by them, pursuant to Ordinance No. 3051 of the City of Manila passed in furtherance of the government policy enunciated In Republic Act No. 37. The herein petitioner filed a petition for Prohibition with the Court of First Instance of Manila to enjoin the herein respondents from enforcing said ordinance. After hearing, the lower court denied the petition. A motion for reconsideration which was filed, was also subsequently denied. Hence, the petition now before this Court.

Republic Act No. 37, passed by Congress on October 1, 1946, provides:

"Sec. 1. All citizens of the Philippines, shall have preference In the lease of public market stall.

"Sec. 2. The Secretary of Finance is hereby empowered to promulgate the necessary rules to carry Into effect the purposes of this Act.

"Sec. 3. All existing laws or parts thereof contrary to the provisions of this Act are hereby repealed.

"Sec. 4. This Act shall take effect on the first day of January, nineteen hundred and forty seven."

Ordinance No. 3051 passed by the Municipal Board of Manila on June 13, 1947, declared that "any existing privilege or permission heretofore granted for the occupancy of a public market stall shall terminate on June 30, 1947" and that "citizens of the Philippines shall have preference in the granting of licenses for the occupancy of public market stalls In accordance with the provisions of Republic Act No. 37".

The questions before this Court In the Instant case are: first, whether or not the Aranque Market Extension in which petitioners are stallholders, is a public market to the extent of coming within the purview of Republic Act

No. 37 and other legislation pursuant thereto; and second, whether or not Ordinance No. 3051 is valid and constitutional in its enforcement of the policy of the government enunciated in Republic Act No. 37.

Petitioners allege that the Aranque Market Extension is not a public market within the meaning of all laws, ordinances, orders and regulations governing public markets because said, market stands on private property and its building was erected with private funds. This contention is not well taken. A market is a 'public market' when it is dedicated to the service of the general public and is operated under government control and supervision as a public utility, whether it be owned by the government or any instrumentality thereof or by any private individual. It is settled doctrine that a "public market may be the object of individual ownership or lease, subject to municipal supervision and control." (43 C.J. p. 394.) Thus, If a market has been permitted to operate under government license for service to the general public, it is a "public market" whether the building that houses it or the land upon which it is built be of private or public ownership. This is not different from public vehicles or vehicles of public utility which are so classified whether they be owned by private individuals or by government instrumentalities. The factors determining a "public market" therefore, are the purpose or use to which such a market is dedicated and the authority under which it operates, and not the fact or status of ownership. It is evident that this is the concept of "public market" as meant by Republic Act No. 37, otherwise the law would have specifically narrowed its denomination of "public market" to those strictly of public ownership. In the instant case, it has been proven and admitted that the Aranque Market Extension is dedicated to the service of the general public and is operating under license of the City of Manila in accordance with all laws; rules and regulations governing public markets. Consequently, there is no doubt whatsoever that the Aranque Market Extension is a public market within the purview of Republic Act No. 37 and all laws, regulations and ordinances promulgated in pursuance thereof.

As regards the validity and constitutionality of City Ordinance No. 3051, promulgated in pursuance of Republic Act No. 37, we held in *Co Chiong et al., vs. Hon. Miguel Cuaderno, et al.*, (46 Off. Gaz., 4833[1]), that Republic Act No. 37 is valid and constitutional; hence, City Ordinance No. 3051 is also valid and constitutional it being a reasonable and valid enforcement of Republic Act No. 37. There is nothing in said ordinance that contravenes or exceeds the scope and purpose of Republic Act No. 37. It simply sets a date on which all licenses or privileges for the occupancy of market stalls would terminate, and which is applied to all market stallholders without discrimination whatsoever. The preference given therein to citizens of the Philippines in the issuance of new licenses or privileges, is but the express mandate of Republic Act No. 37.

Petitioner further alleges that the ejectment of its members from the Aranque Market Extension and the use by Filipino Stallholders of petitioner's privately-owned improvements amount to unlawful confiscation of their property.

It appears, however, of record, in the exhibits Submitted by petitioner, that on May 14, 1946, petitioner urgently requested from the Mayor of the City of Manila, permission for its members, "even temporary" to sell fresh foodstuff at the Aranque Market extension "pending negotiation by the government with Mr. Julian Salgado as landowner, in the matter of lease of the same, as well as outright purchase of the edifices if necessary, or whatever arrangement that may be agreed by all parties concerned. * * *" Acting upon this urgent request, the acting administrator of city market, issued a memorandum to the market-master in the Aranque Market to allow the sale of foods in the Aranque Market Extension "while final arrangement is being transacted."

It is clear, therefore, that petitioner was fully cognizant that the status of its members as stallholders in the Aranque Market Extension was temporary and conditional. Fully cognizant of this situation, they cannot now allege that their ejectment would be confiscatory under the circumstances. Moreover, it is admitted by petitioner that the City of Manila has allowed them to remove all the Improvements built by them. If petitioners had failed to provide for

the contingency that now faces them due to the loss of their stalls, they must suffer the consequences of their unwarranted assumption of permanency as stallholders in the Aranque Market Extension.

Considering, therefore, that the Aranque Market Extension is a public market within the purview of Republic Act No. 37 and Ordinance No. 3051 of the City of Manila which are valid and constitutional legislation, and considering further that no substantial nor constitutional rights of petitioners have been unlawfully violated, this Court hereby dismisses the petition, with costs. It is so ordered.

Moran, C.J., Ozaeta, Paras, Feria, Pablo, Montemayor, and Reyes, JJ., concur.

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