

## SEISMUNDO RAMOS, PETITIONER AND APPELLEE, VS. THE MUNICIPAL COUNCIL OF DAET ET AL. RESPONDENTS AND APPELLANTS.

*G. R. No. L 12520. January 31, 1959*

Ponente: BENGZON, J.

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### BENGZON, J.:

Appeal from the decision of the court of first instance of Camarines Norte requiring the municipal mayor and the municipal treasurer of Daet, same province, to allow the petitioner Seismundo Ramos issue to him a permit to re-open his "Riverside Cabaret" at its old site on Salcedo Street of the aforesaid municipality.

Such cabaret on Salcedo Street was ordered closed by the local authorities on September 6, 1954, because it violated Republic Act No. 979. Ramos contested the order through a petition for declaratory relief and mandamus (Civil Case No. 610); but his petition was denied on January 6, 1955. A month thereafter, Ramos transferred his amusement place to Barrio Tagas, Daet.

On May 17, 1955, Republic Act No. 1224 was enacted; and claiming that under such legislation, he had a right to resume operation and re-open his Riverside Cabaret at its former site, Salcedo Street, Ramos requested respondents for the corresponding permit. His request having been turned down, he started this proceeding, and won in the court below. The provincial fiscal for the respondents, for the matter here on appeal, insisting that Republic Act No. 1224 did not have the effect of granting the petitioner the right to re-open, and that under the governing statutes, it was error for the lower court to direct the issuance of a permit.

There is no question that said Cabaret on Salcedo Street was ordered closed because it actually stood 183 meters from the Roman Catholic church there, and about 150 meters from Briola's Hospital. At that time, Republic Act 979 prohibited the operation of any cabarets within 500 meters from any church or hospital.

Republic Act 1224, invoked by petitioner, also prohibits the operation of cabarets within a radius of 200 meters from hospitals and churches. But petitioner successfully convinced the trial judge that such prohibition does not apply to his cabaret, because the same Act 1224 expressly provided that it "shall not apply x x x to any establishment already in operation when Republic Act 979 took effect."

The fiscal contended that in providing that its provisions and/or new restrictions shall not apply to those establishments already operating when Republic Act 979 took effect, Republic Act 1224 did not intend entirely to do away with the restrictions in Republic Act 979, one of which related to distances from churches and hospitals. However, this contention failed. "It is clear from Republic Act 1224" His Honor said, "that the only requirement the petitioner in this case must fulfill so that he may be exempted from the operation of Republic Act 1224 is that his cabaret was already in operation when Republic Act took effect." What His Honor did not add and did not probably mean is, "even if the cabaret contravened the limitations prescribed in such Republic Act 979." Yet his decision amounts to the same thing; because even after the Fiscal had shown that the cabaret did not conform to or violated the provisions of Republic Act 979, the judge ordered its re-opening.

For the sake of clearness it may be stated here that, in so far as material to this controversy, Republic Act 979 provides' that no cabarets shall be operated "within a radius of five hundred lineal meters from \*\*\* hospitals and churches." Republic Act 1224 provides in part as follows:

\*\*\*\* no such places of amusement mentioned herein shall be established, maintained and or operated within a radius of two hundred lineal meters in the case of night clubs, cabarets, \*\*\* from any public building, schools, hospitals and churches: Provided further, That no municipal or, city ordinance fixing distance at which such places of amusement may be established or operated shall apply to those already licensed and operating at the time of the enactment of such municipal or city ordinance, nor will the subsequent opening of any public building or other premises from which distance etc. \*\*\* Provided, furthermore, That no minor shall be admitted to any bar, saloon, cabaret or night club employing hostessess: And provided, finally, That this Act shall not apply to establishments operating by virtue of Commonwealth Act Numbered Four Hundred eighty-five nor to any establishment already in operation when Republic Act 'Numbered Nine hundred seventy-nine took effect."

In our opinion the last proviso in Republic Act 1224 meant merely that its provisions (including new restrictions) shall not apply to those establishments already in operation on May 21, 1954 (when Republic Act 979 took effect)[1]; as to these, said Republic Act 979 (1) This is our holding in *Rodriguez vs. Baluyot*, 51 Phil. 4005. shall continue to govern. In other words, the proviso did not mean to legalize all those establishments illegally operating on May 21, 1954, or to exempt them from regulation. Republic Act 1224 contained no repealing section, and did not repeal Republic Act 979 in so far as those establishments were concerned. Note, furthermore, that such final proviso exempted establishments operating under Commonwealth Act 485 entitled "An act to permit bets in the game Basque Pelota." If, as maintained by appellee, the last proviso repealed Republic Act 979, then it must be held that Commonwealth Act 485 was likewise repealed, and it is now illegal to bet in the Jai Alai.

This Case may still be viewed from a different angle: The cabaret on Salcedo Street had been closed about March 1955; there is no doubt that the closing was legal, because petitioner went to court and lost; the affair was therefore a finished matter, and this petition is in effect a request to establish a cabaret on Salcedo Street; as such it must be governed by Republic Act 1224. It can not be argued that petitioner simply asks for re-opening or return of the cabaret that had been illegally suppressed; because the padlocking in 1955 was legal at that time; indeed, it was upheld by the courts. Even if it were true which it is not that after the incident the law was amended so as to remove the grounds for closing, such amendment does not ipso facto and retroactively render the previous suppression illegal.

In other words, the repeal of a law granted arguendo that Republic Act 979 was repealed does not render illegal whatever was done or ordered pursuant to its provisions.

\*\*\*\* the repeal of a statute will not operate to impair rights vested under it, or to revive rights lost or taken away under the repealed statute, or to affect acts performed or suits commenced, prosecuted, and concluded under the former law; and the repeal of a statute does not undo or set aside consequences of its operation while in force unless so directed by express language or necessary implication." (Underscoring Ours.) [82 Corpus Juris Secundum p. 1009.]

Again, let us suppose that a cabaret operating in May 1954, voluntarily ceased to do business in 1955, and now wishes to re-open notwithstanding its proximity to a church (100 meters). Could it re-open? Certainly not Republic Act 1224 would stand in the way even if the cabaret was in operation when Republic Act 979 was approved. For all intents and purposes, petitioner's case may not be distinguished, since his operations were lawfully stopped.

At any rate, the privilege which petitioner reads — which we do not see in Republic Act 1224 in favor of cabarets

existing on May 21, 1954, is necessarily the privilege to continue operating, regardless of proximity to churches, hospitals, etc. Not the privilege to re-open at any time, after they regularly close or are closed.

Wherefore, the appealed decision is hereby reversed and the petition denied, with costs. So Ordered.

Paras, C.J. Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J.B.L., and Endencia, JJ., concur.

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[1] This is our holding in *Rodriguez vs. Baluyot*, 97 Phil., 420.

[2] And he sold the lot and the building to a third party.

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