

LUZON STEVEDORING CORPORATION, PLAINTIFF AND APPELLANT, VS. ANTI-DUMMY BOARD, DEFENDANT AND APPELLEE.

G.R. No. L-26094. August 18, 1972

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Plaintiff-appellant Luzon Stevedoring Corporation appealed on February 25, 1966 (p. 86, rec. on appeal) from the decision of the Court of First Instance of Manila dated February 3, 1966 and holding that under the provision of Section 16(a) of the Public Service Act (Commonwealth Act No. 146) in relation to Section 2-A of the Anti-Dummy Law (Commonwealth Act No. 108, as amended by Republic Act No. 134), a public utility corporation "is prohibited from keeping non-American aliens in its employ," copy of which it received on February 5, 1966 (p. 78, rec. on appeal).

On March 13, 1963, plaintiff-appellant Luzon Stevedoring Corporation filed a complaint for declaratory relief, alleging among others that it has nine (9) non-American aliens under its employ since long before the decision on March 31, 1962 in G.R. No. L-14859, entitled "Macario King, et. al. vs. Pedro S. Hernaez, etc., et. al.," which ruled that aliens other than Americans may not be employed in whatever capacity in any retail business in the Philippines because of Section 1 of Republic Act No. 1180 otherwise known as the Retail Trade Law, in conjunction with Section 2-A of Commonwealth Act No. 108, as amended by Republic Act No. 134; and that defendant-appellee Anti-Dummy Board in a letter dated February 27, 1963 advised plaintiff-appellant that the Secretary of Justice rendered an opinion to the effect that the employment of non-American aliens in public utility corporations is prohibited by Section 2-A of the Anti-Dummy Law; and prays for a judicial consturction of the provisions of Section 16(a) of the Public Service Act in relation to Section 2-A of the Anti-Dummy Law, as amended with particular reference to the right of public utility corporations to keep non-American aliens in their employ (pp. 1-8, rec. on appeal).

On April 5, 1963, the defendant-appellee Anti-Dummy Board, through the Solicitor General, filed its answer and interposed therein the special defenses:

- (1) that the complaint states no cause of action;
- (2) that according to the opinion of the Secretary of Justice, plaintiff-appellant cannot employ non-American aliens in accordance with Section 2-A of the Anti-Dummy Law; and
- (3) that plaintiff-appellant, having in its employ nine (9) non-American aliens since before 1962, had already violated Section 2-A of Commonwealth Act No. 108, as amended by Republic Act No. 134, in relation to Section 16(a) of Commonwealth Act No. 146 and Section 8 of Article XIV of the Constitution, and therefore cannot avail of a petition for declaratory relief for the determination of its rights or duties under the aforementioned laws and constitutional provision (pp. 36-38, rec. on appeal).

On October 8, 1965, the parties, assisted by their respective counsels, prayed for judgment on the basis of the following stipulation of facts:

"(1) Plaintiff Luzon Stevedoring Corporation is a public utility corporation organized and existing under the laws of the Philippines, with principal office at Manila;

"(2) Defendant is a duly organized and existing government entity with office at 1117 Oregon Street, Manila;

"(3) Pursuant to Section 16(a) of our Public Service Act, public utility corporations, such as plaintiff, may be organized provided that at least 60% of the subscribed or paid-up capital stock thereof belongs entirely to citizens of the Philippines or of the United States, and the remaining 40% of the said subscribed or paid-up capital stock may belong to non-American aliens;

"(4) Defendant is charged by Republic Act No. 1130 with the duty of enforcing the provisions of our Constitution and our laws which require Philippine and/or United States citizenship for the exercise or enjoyment of a right, franchise or privilege, property or business;

"(5) Defendant is likewise charged with the duty of enforcing and implementing the provisions of Commonwealth Act No. 108, as amended, commonly known as the Anti-Dummy Law;

"(6) Plaintiff has, as of the date of this stipulation, the following non-American aliens in its employ:

Date of

Names

Nationality

Employment

Leopold Henry

Winternitz

Austrian

May 5, 1951

Vice President

for

Special Services

Rafael A.

Spaniard

March, 1947

Vice President

Xaudaro

for Operations

Andres L.

Spaniard

April, 1961

Manager, Davao

Muñoz, Jr.

Branch

Jens

Danish

1939

Stevedore

Jorgensen

Supervisor

Thomas Edge-

Australian

May, 1946

Stevedore

cock

Supervisor

"(7) Within a reasonable time after our Supreme Court denied the last motion for reconsideration filed by petitioners in the case of 'Macario King, et. al., vs. Pedro C. Hernaez, etc., et. al.,' SC-G.R. No. L-14859, plaintiff wrote defendant a letter, requesting the latter's opinion as to whether or not the employment of plaintiff's non-American aliens was within the prohibition stated in Section 2-A of the Anti-Dummy Law;

"(8) On February 27, 1963, defendant wrote plaintiff a letter to the effect that, according to the Secretary of Justice, the employment of non-American aliens even in public utility corporations is prohibited by said provision." (pp. 45-48, rec. on appeal; pp. 30-31, rec.).

The pivotal issue is: whether the prohibition against the employment of non-American aliens in public utility corporations refers only to business, right, franchise or privilege which is completely nationalized.

I

However, WE have to rule first on the procedural question whether the petition for declaratory relief is the proper remedy despite the fact that herein plaintiff-appellant admittedly had already committed a breach of the law since it has been employing non-American aliens long before the decision in King, et. al. vs. Hernaez, et. al. of March 31, 1962.[1] The same issue was raised in the aforesaid King case. Therein, WE ruled that petition for declaratory relief was the appropriate remedy on the ground that the other petitioners therein were already employed, when petitioner King acquired on January 1, 1957 the grocery wholesale and retail business previously owned by the Philippine Cold Stores, Inc.; that three weeks after his acquisition thereof, King sought permission from the President of the Philippines thru the Secretary of Commerce and Industry to retain the three Chinese employees as technical personnel pursuant to Section 2-A of Commonwealth Act No. 108, as amended; and that his request was disapproved because said Chinese employees were not occupying technical positions within the meaning of the aforesaid Section 2-A of Commonwealth Act No. 108, as amended by Republic Act No. 134. But the foregoing circumstances of the King case do not obtain in the case at bar; because plaintiff-appellant has been operating as a public utility since long before the Second World War, has not been transferred to a new owner, and has been employing non-American aliens, the remaining five of whom are – one (1) Danish since 1939, one (1) Australian since May, 1946, one (1) Spaniard since March, 1947, an Austrian since May, 1951, and another Spaniard since April, 1961 – long before the enactment of Republic Act No. 134 on June 14, 1947 and prior to the decision in the King case on March 31, 1962.

And Republic Act No. 1130 enacted on June 16, 1954, created the Anti-Dummy Board "to insure the implementation of all the provisions of the Constitution, nationalization[1-A] laws, and other legal provisions which require Philippine citizenship or citizenship of any other specific country for the exercise or enjoyment of a right, franchise or privilege, property or business, and further, to coordinate, as far as practicable all government agencies charged with the enforcement of the said provisions of the Constitution and laws and, in particular, Commonwealth Act Numbered One Hundred Eight, as amended, * * * ."[2]

Consequently, this petition for declaratory relief could be outrightly dismissed.

II

But because the main issue raised by the present case is of transcendental importance, involving as it does the exercise or enjoyment of rights, franchises, privileges, properties and businesses which only Filipino citizens and qualified corporations can exercise or enjoy under the Constitution and the statutes, and because the same

question can be raised by herein plaintiff-appellant in an appropriate action, WE deem it wise and expedient that WE grapple with and resolve the question in the instant case for the guidance of all concerned.

Under the stipulation of facts approved by the trial court, plaintiff-appellant admits that it is a "public utility corporation recognized and existing under the laws of the Philippines, * * *."

Section 8 of Article XIV of the Constitution enjoins that "no franchise, certificate, or any other form of authorization for the operation of public utility shall be granted except to citizens of the Philippines or to corporations or other entities organized under the laws of the Philippines, sixty per centum of the capital of which is owned by citizens of the Philippines, * * *."

Section 16(a) of Commonwealth Act No. 146, otherwise known as the Public Service Law, provides that "certificates of public convenience and certificates of public convenience and necessity will be granted only to citizens of the Philippines or of the United States or to corporations, co-partnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines: provided, That sixty per centum of the stock or paid-up capital of any such stock corporation, co-partnership, association or joint-stock company must belong entirely to citizens of the Philippines or of the United States: * * *."

It should be recalled that the first Anti-Dummy Law, Commonwealth Act No. 108, which was approved on October 30, 1936, provides:

"SECTION 1. In all cases in which any constitutional or legal provision requires Philippine or United States citizenship as a requisite for the exercise or enjoyment of a right, franchise or privilege, any citizen of the Philippines or the United States who allows his name or citizenship to be used for the purpose of evading such provision, and any alien or foreigner profiting thereby, shall be punished by imprisonment for not less than two nor more than ten years, and by a fine of not less than two thousand nor more than ten thousand pesos.

"The fact that the citizen of the Philippines or of the United States charged with a violation of this Act had, at the time of the acquisition of his holdings in the corporations or associations referred to in section two of this Act, no real or personal property, credit or other assets the value of which shall at least be equivalent to said holdings, shall be admissible as circumstantial evidence of a violation of this Act.

"SEC. 2. In all cases in which a constitutional or legal provision requires that, in order that a corporation or association may exercise or enjoy a right, franchise or privilege, not less than a certain per centum of its capital must be owned by citizens of the Philippines or the United States, or both, it shall be unlawful to falsely simulate the existence of such minimum of stock or capital as owned by such citizens of the Philippines or the United States or both, for the purpose of evading said provision. The president or manager and directors or trustees of corporations or associations convicted of a violation of this section shall be punished by imprisonment for not less than two nor more than ten years, and by a fine of not less than two thousand nor more than ten thousand pesos.

"SEC. 3. Any corporation or association violating any of the provisions of this Act shall, upon proper court proceedings, be dissolved."

Commonwealth Act No. 421, approved on May 31, 1939, amended Commonwealth Act No. 108, by inserting the following Section 2-A and Section 2-B:

"SEC. 2-A. Any person, corporation or association which, having in its name or under its control, a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws of the Philippines to citizens of the Philippines or of the United States, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, permits or allows the use, exploitation or enjoyment thereof by a person, corporation or association not possessing the

requisites prescribed by the Constitution or the laws of the Philippines; or leases, or in any other way transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the Constitution, or the provision of the existing Acts, and any person who knowingly aids, assists, or abets in the planning, consummation or perpetration of any of the acts herein above enumerated, shall be punished by imprisonment for not less than two nor more than ten years, and by a fine of not less than two thousand nor more than ten thousand pesos: Provided, however, That presidents, managers, or persons in charge of corporations, associations or partnerships violating the provisions of this section shall be criminally liable in lieu thereof.'

"SEC. 2-B. Any violation of the provisions of this Act by the spouse of any public official, if both live together, shall be cause for the dismissal of such public official."

And Republic Act No. 134, approved on June 14, 1947, further amended Sections 1, 2 and 2-A of Commonwealth Act No. 108 and inserted Section 3-A therein.

"SECTION 1. In all cases in which any constitutional or legal provision requires Philippine or any other specific citizenship as a requisite for the exercise or enjoyment of a right, franchise or privilege, any citizen of the Philippines or of any other specific country who allows his name or citizenship to be used for the purpose of evading such provision, and any alien or foreigner profiting thereby, shall be punished by imprisonment for not less than five nor more than fifteen years, and by a fine of not less than the value of the right, franchise or privilege, which is enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos.

"The fact that the citizen of the Philippines or of any specific country charged with a violation of this Act had, at the time of the acquisition of his holdings in the corporations or associations referred to in section two of this Acts, no real or personal property, credit or other assets the value of which shall at least be equivalent to said holdings, shall be evidence of a violation of this Act.'

'SEC. 2. In all cases in which a constitutional or legal provision requires that, in order that a corporation or association may exercise or enjoy a right, franchise or privilege, not less than a certain per centum of its capital must be owned by citizens of the Philippines or of any other specific country, it shall be unlawful to falsely simulate the existence of such minimum of stock or capital as owned by such citizens, for the purpose of evading said provision. The president or managers and directors or trustees of corporations or associations convicted of a violation of this section shall be punished by imprisonment of not less than five nor more than fifteen years, and by a fine of not less than the value of the right, franchise or privilege, enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos.'

"SEC. 2 Section two-A of Commonwealth Act Numbered One hundred and eight, as inserted by Commonwealth Act Numbered Four hundred and twenty-one, is amended to read as follows:

"SEC. 2-A. Any person, corporation, or association which, having in its name or under its control, a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws to citizens of the Philippines or of any other specific country, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, permits or allows the use, exploitation or enjoyment thereof by a person, corporation or association not possessing the requisites prescribed by the Constitution or the laws of the Philippines; or leases, or in any other way transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the Constitution, or the provisions of the existing laws; or in any manner permits or allows any person not possessing the qualifications required by the Constitution or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the Constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or

laborer therein, with or without remuneration except technical personnel whose employment may be specifically authorized by the President of the Philippines upon recommendation of the Department Head concerned, if any, and any person who knowingly aids, assists or abets in the planning, consummation or perpetration of any of the acts hereinabove enumerated shall be punished by imprisonment for not less than five nor more than fifteen years, and by a fine of not less than the value of the right, franchise, or privilege enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos: Provided, however, That the president, managers, or persons in charge of corporations, associations, or partnerships violating the provisions of this section shall be criminally liable in lieu thereof: Provided, further, That any person, corporation or association shall, in addition to the penalty imposed herein, forfeit such right, franchise, privilege, and the property or business enjoyed or acquired in violation of the provisions of this Act.'

"SEC. 3. Commonwealth Act Numbered One hundred and eight, as amended, is further amended by inserting between sections three and four thereof, a new section to be known as section three-A, which shall read as follows:

"SEC. 3-A. In case of conviction under the provisions of this Act, twenty-five per centum of any fine imposed shall accrue to the benefit of the informer who furnishes to the Government original information leading to said conviction and who shall be ascertained and named in the judgment of the court. If the informer is a dummy; who shall voluntarily take the initiative of reporting to the proper authorities any violation of the provisions of this Act and assist in the prosecution, resulting in the conviction of any person or corporation profiting thereby or involved therein, he shall be entitled to the reward hereof in the sum equivalent to twenty-five per centum of the fine actually paid to or received by the Government, and shall be exempted from the penal liabilities provided for in this Act."

Aside from increasing the penalties prescribed in Commonwealth Act No. 421, Republic Act No. 134 added that portion which states: "or in any manner permits or allows any person not possessing the qualifications required by the Constitution or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the Constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein, with or without remuneration except technical personnel whose employment may be specifically authorized by the President of the Philippines upon recommendation of the Department Head concerned, if any, * * *."

The aforequoted Section 2-A penalizes (a) any person, corporation or association having in its name or under its control a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the Constitution or the laws to the citizens of the Philippines or of any other specific country, or to corporations or associations at least sixty per centum of which is owned by such citizens, if such person, corporation or association

- (1) "permits or allows the use, exploitation or enjoyment thereof by a person, corporation, or association not possessing the requisites prescribed by the Constitution or the laws of the Philippines";
- (2) "or leases or in any other way transfers or conveys said right, franchise, privilege, property or business to a person, corporation or association not otherwise qualified under the Constitution or the provisions of existing laws";
- (3) "or in any manner permits or allows any person, not possessing the qualifications required by the Constitution or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the Constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein with or without remuneration except

technical personnel whose employment may be specifically authorized by the President of the Philippines upon the recommendation of the department head concerned, if any, * * *."

WE ruled in the King case that Section 2-A applies to the employment by Macario King, a naturalized Filipino citizen, of three Chinese citizens as non-technical personnel in his retail business.[3] However, in the King case, Macario King was a natural person, unlike the herein plaintiff-appellant which is an artificial person. This difference in personality is seized upon by plaintiff-appellant in launching its main argument that the third predicate in Section 2-A of Commonwealth Act No. 108 as amended by Republic Act No. 134 comprehends only wholly nationalized businesses and excludes those partly nationalized.

Plaintiff-appellant further argues that the trend of our laws towards the nationalization of business in the Philippines for economic protection follows two different patterns: (1) for complete or absolute nationalization, as typified by Republic Act No. 776, which requires that only Filipino citizens or corporations or associations wholly owned by Philippine citizens can engage in domestic air commerce and/or air transportation, and Republic Act No. 1180 which completely nationalized the retail trade; and (2) partial nationalization, exemplified by Commonwealth Act No. 141, otherwise known as the Public Land Law, Republic Act No. 1407 or the Shipping Act of 1955, Commonwealth Act No. 146 otherwise known as the Public Service Law, and Commonwealth Act No. 137 otherwise known as the Mining Law, which authorize aliens to own or control up to 40% of the capital stock of corporations or associations respectively engaged in the acquisition of public lands, in public utilities including shipping, and in mining.

Plaintiff-appellant further contends that because, unlike in the first two dependent clauses, of the absence of the phrase "or to qualified corporations or associations" immediately after the phrase "citizens of the Philippines or of any other specific country" in Clause 3 of Section 2-A of the Anti-Dummy Law, Congress by such omission intended to limit the prohibition against the employment of non-American aliens in the operation of public utilities to such public utilities as are owned wholly by citizens of the Philippines or of any other specific country.

This position of plaintiff-appellant is not supported by the phraseology of the law as well as by the intendment of the legislature as hereinafter demonstrated.

(1) The policy or purpose of the amendatory law, Republic Act No. 134, in inserting Clause 3 in Section 2-A of Commonwealth Act No. 108, as amended by Commonwealth Act No. 421, was to plug all loopholes that may be utilized by designing foreigners to circumvent the nationalization laws of the country, regardless of whether such laws provide for complete or only partial nationalization of the right, franchise, privilege, property or business covered thereby.

This is stressed by the explanatory note of House Bill No. 1027:

"The existing law is full of loopholes, and the penalties provided for therein are not severe enough. Persons who aid, assist, or abet in the evasion of the provisions of the Constitution and of our laws by citizens of the Philippines or of the United States who permit the use of their name or citizenship in the enjoyment of a right, franchise, or privilege which is granted only to such citizens, are not penalized under existing law. There is also no penalty imposed on persons who assist, aid or abet in the evasion of the provisions of the Constitution and of our laws requiring the ownership of a certain per centum of the capital of a corporation or association for the enjoyment of certain rights, franchises, or privileges. No provision in the existing law orders the deportation of aliens, who, abusing the hospitality of the country where they reside, violate our nationalization laws.

"This bill not only plugs such and other loopholes but also provides severer penalties to prevent departure from the clearly enunciated policies of the state." [4]

To the same effect is the explanatory note of Senate Bill No. 207, which contains similar provisions as House Bill No. 1027, thus:

"Commonwealth Act No. 108, as amended, is liberal against those who may traffic with Philippine citizenship. There is a need of enacting a stiffer law. Hence, the proposed measure. The salient features of the proposed amendment are as follows:

"1. Penalizing those who, in any manner, permits or allows any person, not possessing the qualifications required by the Constitution or existing laws to acquire, use, exploit or enjoy a right, franchise, privilege, property or business, the exercise and enjoyment of which are expressly reserved by the Constitution or existing laws to citizens of the Philippines or of any other specific country, to intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein, with or without remuneration; * * *." [5]

Although the conference committee of both Houses agreed that the explanatory note, the title of the Act and the body of the Act shall be those appearing in Senate Bill No. 207, the explanatory notes of both bills should be considered jointly; because, aside from the fact that the same conference committee report states that the conferees agreed to recommend to the respective Houses that the bill shall be known as House Bill No. 1027 and Senate Bill No. 207, the members of Congress, in voting for the measure, intended to give effect to the policy and purpose of the same as expressed in both explanatory notes.[6] The absence of any debate on the questioned clause 3, underscores the complete agreement of the legislators on the matter.

Neither the law nor the explanatory note distinguish between wholly and partly nationalized businesses. It is axiomatic that where the law does not distinguish, WE should not make any distinction.

Once the policy or purpose of the law is ascertained, the Judiciary has the imperative duty to give it effect, even if the policy goes beyond the letter or words of the statute.[7] Thus WE ruled thru Mr. Justice Fernando:

"3. Moreover, any other view would be to betray lack of fidelity to the purpose so manifest in the controlling legal provision. It is fundamental that once the policy or purpose of the law has been ascertained, effect should be given to it by the judiciary. From *Ty Sue vs. Hord*, decided in 1909, it has been our constant holding that the choice between conflicting theories falls on that which best accords with the letter of the law and with its purpose. The next year, in an equally leading decision, *United States vs. Toribio*, there was a caveat against a construction that would tend 'to defeat the purpose and object of the legislator.' Then came the admonition in *Riera vs. Palmaroli*, against an application so narrow 'as to defeat the manifest purpose of the legislator.' This was repeated in the latest case, *Commissioner of Customs vs. Caltex*, in almost identical language.

"So it is in the United States. Thus, in an 1898 decision, the then Justice, later Chief Justice, White minimized reliance on the subtle signification of words and the niceties of verbal distinction stressing the fundamental rule of carrying out the purpose and objective of legislation. As succinctly put by the then Justice, later Chief Justice, Stone: 'All statutes must be construed in the light of their purpose.' The same thought has been phrased differently. Thus: 'The purpose of Congress is a dominant factor in determining meaning.' For, to paraphrase Frankfurter, legislative words are not inert but derive vitality from the obvious purposes at which they are aimed. The same jurist likewise had occasion to state: 'Regard for [its] purposes should infuse the construction of the legislation if it is to be treated as a working instrument of government and not merely as a collection of English words.' In the sixth annual Benjamin Nathan Cardozo lecture delivered by him, entitled 'Some Reflections on the Reading of Statutes,' he developed the theme further: 'The generating consideration is that legislation is more than composition. It is an active instrument of government which, for purposes of interpretation, means that laws have ends to be achieved. It is in this connection that Holmes said, 'words are flexible.' Again it was Holmes, the last judge give quarter to loose thinking or vague yearning, who said that 'the general purpose is a more important aid to the meaning than any rule which grammar or formal logic may lay down.' And it was Holmes who chided courts for being 'apt to err by sticking too closely to the words of a

law where those words import a policy that goes beyond them.' Note, however, that he found the policy in 'those words.'

"It may be noted parenthetically that earlier, the United States Supreme Court was partial more to the term 'objective' or 'policy' rather than 'purpose.' So it was in the first decision where this fundamental principle of construction was relied upon, the opinion coming from Chief Justice Marshall. Thus: 'The two subjects were equally within the province of the legislature, equally demanded their attention, and were brought together to their view. If, then, the words making provision for each, fairly admit of an equally extensive interpretation, and of one of which will effect the object that seems to have been in contemplation, and which was certainly desirable, they ought to receive that interpretation.'

"So, too, with his successor, Chief Justice Taney. Thus: 'This construction cannot be maintained. In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the whole law, and to its object and policy.' It should not escape attention that the above excerpt was quoted with approval by the present Chief Justice Warren as late as 1957." [8]

Aside from employing dummies, the stockholders who own 40% of the capital stock of a public utility, may effectively control its operation by employing aliens to implement their plan to subvert our territorial integrity and our economic stability. Shipping lines, whether for passengers alone, or for cargo only, or for both passengers and cargo, are the vital arteries of commerce, perhaps more vital to our security and independence than the nationalization of the retail trade. Alien control of inter-island navigation means economic control and political domination of our country by alien hands. It should be stressed that the interest of Filipino stockholders may be nullified by the employment of hostile aliens who actually man and operate the ships. In times of peace, such vessels may be utilized for smuggling not only of prohibited or dutiable goods but also of hostile human cargo as well as for gun-running. In times of war, the peril to the State is greater because the officers and employees manning the ships or directing their operations may be enemy aliens. And even if they are nationals of a neutral, country, they may operate the ships in violation of the laws of war to embarrass our government and alienate the sympathy or support of other nations and thus weaken our position vis-a-vis the enemy.

Republic Act No. 134 not only seeks to prevent all possible schemes to evade such nationalization laws, but also provides more severe penalties for, in order to discourage, violations of Sections 2-A and 3-A which impose now an imprisonment of not less than five (5) or not more than fifteen (15) years and a fine not less than P5,000.00, instead of previously an imprisonment of from two to ten years and a fine of P2,000.00 to P10,000.00, aside from the forfeiture of the right, franchise, privilege, property or business enjoyed or acquired in violation of the Anti-Dummy Law and the grant of rewards to informers and of exemption from criminal liability, in addition to the reward, if the informer is a dummy, provided that the information results in criminal conviction.

(2) Under plaintiff-appellant's contention, a partially nationalized corporation or association will not be liable under the questioned provision of Section 2-A of Commonwealth Act No. 108, as amended, for employing non-American aliens in the management, operation, administration or control of the business; whereas a Filipino citizen or a wholly nationalized corporation or association operating the same business is subject to the penal provision of the law if he or it maintains in his or employ non-American aliens. This would grant more rights and greater immunities to a partially nationalized corporation or association, a mere creature of the law, than to a Filipino citizen or a completely nationalized corporation or association. This theory offends all logic or reason, which could not have been intended by Congress in enacting Republic Act No. 134 purposely fashioned to implement and strengthen the provisions of Commonwealth Act No. 108, as amended by Commonwealth Act No. 421.

(3) The correct construction should be that all the three clauses including clause 3 of Section 2-A of the

Anti-Dummy Law are dependent on and are subordinate to its principal and only opening clause. Tested by the rules of grammar, the three dependent clauses are merely the three different predicates of the same subject, the sole opening clause; because the questioned clause 3, like the first two preceding clauses, cannot stand by itself and is meaningless without, and unless read together with, said opening clause.

The three dependent clauses or predicates are three separate criminal acts for which a person, corporation or association mentioned in the opening clause, whether completely or partially nationalized, is liable; because the opening clause includes corporations or associations at least 60 per centum of the capital stock of which is owned by Filipino citizens or of any other specific country.

(4) Then again, the term "citizens of the Philippines" as employed in the questioned clause of Section 2-A of the Anti-Dummy Law includes both natural and juridical persons in much the same manner that the term "person" in the due process clause of the Bill of Rights comprehends both human beings and artificial persons.[9]

(5) Generally, under the Corporation Law, aliens may be employed in domestic corporations and alien stockholders therein can vote to elect alien directors, for the simple reason that the Corporation Law does not prohibit the same. But the Corporation Law with respect to the operation of public utilities – which under the Constitution can be operated only by Filipino citizens or corporations or associations at least 60 per centum of the capital stock of which is owned by Filipino citizens or corporations or associations wholly owned by Filipino citizens (Section 8 of Article XIV of the Constitution) – must be subject to and conditioned by the Anti-Dummy Law which was enacted subsequent to the Corporation Law, otherwise known as Act No. 1459 which took effect April 1, 1906. Consequently, the alien stockholders who own 40% of the capital stock of a public utility corporation or association cannot elect an alien director, much less demand the employment of aliens in the management, operation, administration or control of the corporation or business whether as officer, employee, or laborer, with or without compensation. If the Corporation Law can be invoked to justify the employment of non-American aliens in public utilities, then the Anti-Dummy Law, as amended, would be a useless attempt to penalize violations of the nationalization laws and the constitutional provision reserving the operation of public utilities to Filipino citizens or Filipino-dominated corporations or association would be nullified as a consequence.

At any time, Congress can modify Republic Act No. 776 and Republic Act No. 1180 so as to partially nationalize air commerce and air transportation and the retail trade. If that happens, then clause 3 of Section 2-A of Commonwealth Act No. 108, as amended, will no longer apply to air transportation or air commerce, and the retail trade, if the theory of plaintiff-appellant were to be sustained. Such eventuality will aggravate the peril to our economy and territorial integrity. Such a dire result could not be desired by Congress.

III

Plaintiff-appellant erred in drawing the conclusion that tugboats and lighters were withdrawn from the coverage of the nationalization provision of Section 16 of Commonwealth Act No. 146, as amended, otherwise known as the Public Service Law, from the mere fact that Republic Act No. 2031 of 1957 amended Section 14 of the Public Service Law by exempting from the provision of Section 13 of the said law tugboats and lighters, obviously the vessels operated by plaintiff-appellant.

The reason why Congress amended the aforesaid Section 14 by exempting tugboats and lighters from the provision of Section 13 of the Public Service Law, is to make it consistent with Sections 1139 (a) and (b) and Section 1167 and 1169 of the Revised Administrative Code which confer on the Bureau of Customs general supervision, control and regulation of the coastwise trade and in the carrying or towing of passengers and freight on the bays and rivers in the Philippines as well as the registration and licensing of vessels, particularly of more than three tons gross used in Philippine waters.[10] The amendatory law, Republic Act No. 2031, does not

authorize non-American aliens to operate tugboats and lighters within the territorial waters of the Philippines; for such tugboats and lighters do not cease to be public utilities as long as they are for hire. As heretofore intimated, they pose as much danger to the economy and security of the State as ordinary passenger vessels.

The amendment only removed the tugboats and lighters from the jurisdiction of the Public Service Commission over public services, which is defined in Section 13 of the Public Service Law, as amended.

Parenthetically, Republic Act No. 5173, approved on August 4, 1967, appears to have transferred such jurisdiction to the Philippine Coast Guard.

WHEREFORE, the appealed judgment is hereby affirmed, with costs against plaintiff-appellant.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Antonio, and Esguerra, JJ., concur.

Barredo and Teehankee, JJ., took no part.

[1] 4 SCRA 792.

[1-A] The term "nationalization," or "nationalized" should be understood as Filipinization or Filipinized, not state-ownership or state-owned; because the Constitution and the Public Service Law provide that only Filipino citizens or corporations at least 60 per centum of whose capital stock is owned by Filipino citizens, can own or operate public utilities.

[2] Sec. 2, R.A. No. 1130.

[3] 4 SCRA 792.

[4] Vol. II, Congressional Record of the House of Representatives, Jan. 27 to May 22, 1947.

[5] Vol. II, Congressional Record of the Senate, Jan. 27 to May 22, 1947.

[6] Vol. II, Senate Congressional Record, Jan. 27 to May 22, 1947.

[7] *Sarcos vs. Castillo*, L-29755, Jan. 31, 1969, 26 SCRA 853, 859.

[8] *Sarcos vs. Castillo*, *supra*, 859-862.

[9] *Smith Bell & Co. vs. Natividad*, 40 Phil. 136.

[10] Vol. IV, Senate Congressional Record, No. 7, pp. 66-67, Feb. 5, 1957.

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