

LAGUNA TAYABAS BUS COMPANY, PLAINTIFF AND APPELLANT, VS. PROVINCE OF LAGUNA AND THE PROVINCIAL TREASURER OF LAGUNA, DEFENDANTS AND APPELLEES.

G.R. No. L-6976. August 30, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiff seeks to recover from the province of Laguna the sum of P53,657.75 as toll fees claimed to have been illegally collected for the use of the Lumban bridge from February 26, 1948 to July 31, 1949, or, as an alternative prayer, the refund of 50% of the toll fees paid during the same period in the amount of P26,828.87.

The action was filed before the Court of First Instance of Laguna where, after due trial, judgment was rendered upholding the validity of the collection of the toll fees by the province and dismissing the complaint. The case is now before us on appeal in view of the amount involved and the nature of the issues raised by the parties.

Sometime in 1930 the province of Laguna constructed the Lumban bridge with funds raised through bonds floated under its liability. The bridge was constructed on a portion of the Calamba-Sta. Cruz-Famy junction road which was declared a national road by the Chief Executive (Executive Order No. 71, series of 1936, as amended by Executive Order No. 311, series of 1940). During the war the bridge was destroyed and only the two concrete abutments, one on each side of the river, and two concrete middle piers, were left standing. In view of such destruction and the necessity of constructing another one to replace it, Congressman Estanislao Fernandez made representation to the Secretary of Public Works and Communications requesting that such aid be extended inasmuch as at that time the provincial government of Laguna was not in a position to build a new bridge or reconstruct the old one. His efforts were rewarded when the national government agreed to put up a bailey bridge using the concrete abutments and piers of the old bridge.

Soon after the construction of the bailey bridge, the Provincial Board of Laguna approved on October 1, 1947 Resolution No. 750 fixing the toll fees to be paid for the use of said bridge, and, on November 25, 1947, the Secretary of Public Works and Communications approved said resolution under the authority granted him by section 2131 of the Revised Administrative Code.

Before the approval of said Resolution No. 750 by the Secretary of Public Works and Communications, plaintiff requested the Provincial Treasurer of Laguna to revive a pre-war arrangement whereby the company used to make and advance deposit to cover the estimated amount of the toll fees for the ensuing month and the defendant, in consideration of such deposit, used to give the company a discount of 40 per cent. Acting on this request, the Provincial Board of Laguna approved Resolution No. 820 on November 5, 1947 granting the company a reduction of 25 per cent effective November 16, 1947.

The proposed reduction was, however, found unacceptable by the Department of Public Works and Communications on the ground that it would only benefit one operator and would be discriminatory against the others, and so, said Department, in an indorsement to the Director of Public Works on November 25, 1947,

suggested the advisability of making a general reduction of the toll fees to be charged for the use of the bridge. Accordingly, on February 20, 1948, the Director of Public Works recommended a reduction of 50 per cent of the toll fees, and this recommendation was approved by the Secretary of Public Works and Communications on April 21, 1948. The correspondence on the matter was transmitted, through the District Engineer, to the Provincial Treasurer of Laguna by the Director of Public Works in an indorsement dated February 24, 1948, with the request that, upon receipt thereof, the reduction of the toll fees be made effective.

Inasmuch as the proposed toll reduction would seriously impair the finances of the province of Laguna which at that time was still hamstrung by its obligation under the bond issue and believing that the belated claim of ownership of the bridge by the national government would deprive the province of its property without due process of law, unless it carries with it an assurance that it would be relieved of its indebtedness under the bond, the Provincial Board of Laguna, in a resolution approved on March 6, 1948, declined to accept the proposed reduction of the toll fees. So that until July 31, 1949, the province of Laguna continued collecting the toll fees prescribed in its original resolution instead of the reduced rates as recommended by the Director of Public Works.

The Secretary of Public Works and Communications, in an indorsement dated March 17, 1949 to the Secretary of Interior, informed the latter of the history of the bridge as well as the claim of ownership by the province of Laguna, and its refusal to adopt the reduced rates, requesting at the same time that it make use of its good offices to have the province agree to the reduced rates approved by the Department of Public Works and Communications. The Secretary of Interior acceded to the request and, accordingly, suggested to the Provincial Board of Laguna that it "adopt the reduced toll rates as recommended by the Department of Public Works and Communications, without prejudice to future revision should circumstances warrant increasing the toll rates again."

After a round of correspondence exchanged between the Secretary of Public Works and Communications, the Provincial Board of Laguna, the Secretary of Interior, and the Office of the President, the Provincial Board of Laguna approved Resolution No. 556 on August 3, 1949, in which, after quoting the opinion of the Executive Secretary that the bridge in question belongs to the national government and should be administered by the Department of Public Works and Communications, it resolved to turn over the bridge to said Department on August 1, 1949 and to make effective the reduced toll fees as of said date.

As an aftermath of the letter of the Executive Secretary declaring the bridge to be the property of the national government and requiring the province of Laguna to agree to the toll fees reduced by the Secretary of Public Works and Communications, the plaintiff demanded from the province the refund of one-half of the toll fees it paid from February 26, 1948 to July 31, 1949 which, as was later increased, amount to P53,657.75. And when this demand was refused, plaintiff instituted the present action.

It should be stated, in passing, that acting on an indorsement of the Secretary of Public Works and Communications dated September 3, 1949, the President of the Philippines issued Executive Order No. 552 on August 7, 1952 declaring the disputed bridge to be national and directing that the toll fees as reduced by said Department be collected effective as of August 1, 1949.

The present appeal poses the following issues: (1) Since the bailey bridge was declared to be a national bridge, is the collection of toll fees for its use in pursuance of Resolution No. 750 of the Provincial Board of Laguna approved on October 1, 1947 valid and legal?; and (2) Is the plaintiff entitled to the refund of the toll fees paid by it to the province during the period from February 26, 1948 to July 31, 1949 amounting to P53,567.75, or at least to the refund of one-half thereof in line with the reduced rates proposed by the Director of Public Works?

With regard to the first issue, it is true that the Lumban bailey bridge was declared to be one belonging to the

national government by the Office of the President on July 13, 1949, following the controversy between the province of Laguna and the Department of Public Works and Communications over the ownership of said bridge, and that this view was later ratified by the Chief Executive when he issued Executive Order No. 552 on August 7, 1952. But it should be noted that that official declaration only came on August 7, 1952 and was made effective only as of August 1, 1949, it being apparently the intention to leave in its status quo the situation of the bridge concerning the collection of toll fees prior to said date of August 1, 1949.

A factor that should be considered in the determination of this question is the fact that the Lumban bridge was originally constructed by the province in 1930 with funds raised through a bond issue under its liability, and that when said bridge was destroyed it was replaced by the present bailey bridge through the accommodation extended by the national government. This gave the province the impression that the newly reconstructed bridge merely took the place of the original and as such it continued to be subject to the same in lien as regards the collection of toll fees in order to enable the province to discharge its obligation under the bond. And in keeping with this view, the Provincial Board of Laguna approved on October 1, 1947 its Resolution No. 750 and assumed, with the approval, of the national government, the administration and operating of said bridge by collecting toll fees, appointing the necessary personnel and fixing their salaries. This impression was further bolstered up when Resolution No. 750 was approved by the Secretary of Public Works and Communications thereby considering the bridge as provincial under section 2131 of the Revised Administrative Code. In fact, the national government allowed the province of Laguna to collect said fees mainly to help it pay its bonded indebtedness, as can be gleaned from the following portion of the letter of the Director of Public Works: "If the present Lumban Bailey Bridge was declared a toll bridge under Section 2131 of the Revised Administrative Code, as amended, this office was prompted by no other purpose than to (give accommodation to the province so that she may be able to pay back her bonded indebtedness." (Exhibit E-3)

It can, therefore, be said that, while the Liimban bailey bridge was declared a national bridge by the Chief Executive in an executive order issued on August 7, 1952, the collection of the toll fees prior to August 1, 1949 was always considered valid, the same having been made under section 2131 of the Revised Administrative Code.

The second issue is but a corollary to the first. If we hold, as we now do that the province of Laguna was allowed by the national government to operate the present Lumban bridge mainly "for purposes of collection of toll fees" and that it was only on August 7, 1952 that it was officially declared a national bridge in view of the controversy that developed between the province of Laguna and the Department of Public Works and Communications regarding its ownership, it follows as a necessary consequence that the collection made by the province of the toll fees during the period from February 26, 1948 to July 31, 1949 is valid and legal, it having been made in pursuance of a resolution duly approved by the Secretary of Public Works and Communications. This is a substantial compliance with Section 2131 of the Revised Administrative Code. And under this theory, plaintiff cannot even recover the one-half reduction of what it had paid in view of Executive Order No. 552 which makes such reduction effective only as of August 1, 1949.

It is true that the Executive Secretary, in his letter to the Provincial Board of Laguna, intimated his desire that the toll rates as reduced by the Secretary of Public Works and Communications be followed, but he did not indicate therein that the collection should be given retroactive effect. That his intention was not to give to the reduction a retroactive effect may be seen from Executive Order No. 552 which specifically directs that the reduced toll fees be collected only as of August 1, 1949. If the intention were otherwise, the President would have followed to the letter the recommendation of the Director of Public Works. But, as it appears, he followed instead the recommendation of the Provincial Board of Laguna in its Resolution No. 556 that the reduced toll fees be made effective as of August 1, 1959.

We find, therefore, no other alternative than to hold that the toll fees collected by the province of Laguna before August 1, 1949 were collected in accordance with law.

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

Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion and Reyes, J.B.L., JJ., concur.

Judgment affirmed.

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