

PAULINO OCHOA, ET AL., PETITIONERS AND APPELLANTS, VS. THE MAYOR AND TREASURER OF PASAY CITY, RESPONDENTS AND APPELLEES.

G.R. No. L-9171. August 27, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petitioners Paulino Ochoa, et al., are admittedly bona fide pork vendors and stall holders in the public market of Pasay City. They were, and are being, required to pay, for their swines or hogs slaughtered in the public abattoir of Pasay, the fee of P0.05 per kilo prescribed, for the slaughtering "of large cattle", in Ordinance No. 3, series of 1945 of said City. Section 1 of said ordinance provides:

"That all owners or incharge of every large cattle slaughtered within the Public Slaughterhouse must pay the slaughter fee of five (P0.05) centavos per kilo of the parts of the carcass originally taxed by existing laws and ordinances."

Contending that the phrase "large cattle" as used in this ordinance does not include swine or hogs, petitioners instituted this case in the Court of First Instance of Rizal for a declaratory judgment to the effect that the application of said ordinance to swine is "erroneous and illegal and should be ordered * * * stopped immediately." The answer filed by respondents, Mayor and Treasurer of Pasay City, having merely raised the question of law, whether hogs or swines are included within the purview of the words "large cattle" used in said ordinance, on motion of the petitioners, not objected to by the respondents, said court rendered a judgment on the pleadings, resolving said question in the negative and declaring the aforementioned ordinance "inapplicable and without force and effect insofar as swine or hogs that may hereafter be slaughtered by the petitioners within the slaughterhouse of Pasay City."

Petitioners have appealed from said decision, upon the ground that it should not confine its effects to swine or hogs "hereafter" slaughtered by them. This limitation is, indeed, untenable. If, as the lower court had correctly held, the term 'large cattle' used in section 1 of Ordinance No. 3, series of 1945, of Pasay City,, does not include * * * hogs or swine," it follows that this enactment is, inapplicable to any and all hogs or swine slaughtered in the public abattoir of Pasay City during the effectivity of said local legislation, either before or after the final disposition of the case at bar.

Wherefore, modified in the sense that swine or hogs slaughtered in said public abattoir, at any time after the passage of the ordinance above referred to, are not subject to the provisions thereof, the decision appealed from is hereby affirmed, in all other respects, without special pronouncements as to costs. It is so ordered.

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

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