

JUANA RIVERA, PETITIONER, VS. RICHARD CAMPBELL, JUDGE OF THE COURT OF FIRST INSTANCE OF THE CITY OF MANILA, RESPONDENT.

G.R. No. 11119, March 23, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

The petition in the present case was presented for the purpose of obtaining the writ of certiorari. The record shows that the petitioner had been convicted of a violation of subsection (f) of section 4 of Ordinance No. 149, first by the municipal court of the city of Manila and again by the Court of First Instance of the city of Manila. She alleged in each court that the same was without jurisdiction to try her for the crime committed. She admitted that she had committed the acts charged in the complaint, but denied that the courts of the city of Manila had jurisdiction to try her for the same. Each of said courts overruled her objection to the jurisdiction, each found her guilty of the crime charged, and each sentenced her to pay a fine.

Upon the presentation of the petition in this court the respondent was ordered to appear and show cause why the writ should not issue. In response to said order a demurrer was presented.

The facts upon which the present proceeding are based seem to be as follows: That the said Juana Rivera was charged with having willfully and unlawfully washed garments, articles of clothing, and fabrics in the waters of that part of the Mariquina River lying between the Santolan pumping station and the Boso-Boso dam, in the Province of Rizal, a place then occupied by duly authorized representatives and employees of the city of Manila, on or about May 11th, 1915, in violation of subsection (f) of section 4 of Ordinance No. 149 of the city of Manila, in relation with the provisions of sections 6 and 7 of the same Ordinance.

Upon said complaint the municipal court found the plaintiff guilty. She appealed to the Court of First Instance where she was again found guilty of a violation of said Ordinance.

The simple question presented in the present case is whether or not the courts of the city of Manila have jurisdiction over the crime committed by the petitioner at the place it was committed.

Said section 4 of paragraph (f) of said Ordinance provides as follows:

"SECTION 4. The following regulations shall be observed upon all lands occupied by any duly authorized representative, officer, or employee of the city of Manila:

* * * * *

"(f) Bathing in water courses.—All persons are prohibited from bathing in the river and water courses. The washing of garments, articles of clothing, and fabrics in the waters of any river or water course is prohibited."

Said section of said Ordinance was adopted by the municipal board of the city of Manila in pursuance of the power conferred upon it by authority of the provisions of paragraphs (w) and (cc) of section 17 of Act No. 183,

and paragraph (i) of section 3 of Act No. 1150 of the Philippine Commission.

Section 17 and paragraphs (w) and (cc) provide:

"SEC. 17. * * * In addition to the foregoing the board (municipal) shall have the following general powers:

* * * * *

"(w) To maintain waterworks for the purpose of supplying water to the inhabitants of the city (of Manila), to purify the source of supply, and regulate the control and use of the water, and to fix and collect rents therefor; to regulate the construction, repair, and use of hydrants, pumps, cisterns, and reservoirs, and to prevent the waste of water.

* * * * *

"(cc) To extend and enforce all its ordinances over all waters within the city, * * * and for the purpose of protecting and insuring the purity of the water supply of the city, to extend and enforce ordinances to that end over all territory within the drainage area of such water supply, or within one hundred meters of any reservoir, conduit, canal, aqueduct, or pumping station used in connection with the city water service."

The municipal board was further authorized to protect the purity of the water supply of the city of Manila, by Act No. 1150 of the Philippine Commission. Section 3 of said Act provides:

"SEC. 3. (Act No. 1150.) The ordinances drafted by the Board of Health may provide for:

* * * * *

"(i) Protection from infection of all public and private water supplies and sources, and prohibition of the use of water of dangerous character for domestic purposes. Ordinances enacted for the purpose of protecting the purity of the water supply of Manila shall apply to and be enforced over all territory within the drainage area of such water supply or within one hundred meters of any reservoir, conduit, canal, aqueduct, or pumping station used in connection with the city water service."

It is admitted that during the dry season, the city of Manila was obliged to use, in addition to the natural water supply from Boso-Boso dam, the water from Mariquina River; that the water was taken out of the Mariquina River by means of a pumping station located some distance below Boso-Boso dam, and that the petitioner was found washing her clothing between the said pumping station and Boso-Boso dam. It is clear, therefore, that she was guilty of interfering with the purity of the water which was supplied to the city of Manila by said pumping station.

With reference to the jurisdiction of the courts of the city of Manila over said territory, it may be noted that section 6 of said Ordinance No. 149, expressly confers upon the municipal court of the city of Manila power to try any violation of any of its provisions. Section 7 of said ordinance provides the penalty for its violation.

When the question of the jurisdiction of the Court of First Instance of the city of Manila was presented to the lower court, Judge Campbell, the respondent herein, in a very well-reasoned opinion, reached the conclusion that the court had jurisdiction over the petitioner and the offense committed, and sentenced her to pay a fine of P50 and costs, and in case of insolvency to suffer subsidiary imprisonment. In the course of his opinion, Judge Campbell said:

"It is beyond question that by washing garments, articles of clothing, and fabrics in the Mariquina River, as shown above, the defendant committed a violation of paragraph (f) of section 4 of Ordinance No. 149 of the city of Manila, in connection with sections 6 and 7 thereof. The Santolan pumping station is a part of the public water supply of the city of Manila which is used in supplying the inhabitants of the city with water taken from

that part of the Mariquina River during the dry season, in the waters of which the defendant washed articles of clothing. According to American authorities, the true meaning of the phrase public water supply is as follows:

" 'Public water supply is not limited to water supply owned and controlled by a municipal corporation, but should be construed as meaning a supply of water for public and domestic use, furnished or to be furnished from waterworks.' (State vs. Township etc., 52 N. J. Law, 496; 19

"The provisions of Ordinance No. 149 of the city of Manila and the Acts of the Philippine Commission upon which it is based would be meaningless and almost absurd if made applicable only to the Santolan pumping station and not to that part of the Mariquina River immediately above it and from which the said pumping station draws water for the use of the inhabitants of the city of Manila during the dry season, considering that the policy and purpose of said ordinance is the protection of the public health in the said city.

"According to American decisions on the construction of statutes: 'Every statute must be construed with reference to the object intended to be accomplished by it. In order to ascertain this object it is proper to consider the occasion and necessity of its enactment, * * * and the statute should be given that construction which is best calculated to advance its object, by suppressing the mischief and securing the benefits intended.' (36 Cyc, 1110, 1111.)

"That the Court of First Instance of the city of Manila has jurisdiction to try the offense under consideration, although committed in the Province of Rizal, by virtue of the provisions of said ordinance (149), based upon paragraphs (w) and (cc), of section 17 of Act No. 183, and paragraph (i) of section 3 of Act No. 1150 of the Philippine Commission can not be disputed, if we simply take into consideration the following rule, which has been pronounced on many occasions, in relation to the same question, by many courts:

" 'The corporation boundaries usually mark the limit for the exercise of the police power by the municipality; but in many instances because essential to the statutory performance of police functions, and especially for the preservation of the public health, the municipality is granted police power beyond its boundaries. Thus it has been held that the grant of power to acquire territory for water supply beyond the limits of the municipality is within the competency of the legislature, and that the municipality may exercise police power in the protection of the territory thus acquired to insure cleanliness, and prevent any business and conduct likely to corrupt the fountain of water supply for the city.' (28 Cyc, 703, 704.)"

After a consideration of the facts and the law applicable thereto and the general power conferred upon the city of Manila, we are fully persuaded that the municipal court of the city of Manila, as well as the Court of First Instance of the city of Manila, has jurisdiction to hear and determine the question presented by the complaint originally presented against the petitioner. Therefore the petition for the writ of certiorari is hereby denied, with costs. So ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

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