

INES SANTOS, ET AL., PLAINTIFFS AND APPELLEES, VS. THE MUNICIPAL GOVERNMENT OF CALOOCAN, RIZAL, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 15807. April 22, 1963

Ponente: REGALA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-15807/>

REGALA, J.:

The Municipal Council of Caloocan, Rizal, pursuant to Commonwealth Act No. 655, in September, 1946, passed and approved Ordinance No. 24, Section 2 of which reads:

"Section 2. The fees fixed hereunder shall be collected from any person, association, or corporation who slaughters animal or animals in the herein established slaughterhouse:

Slaughterhouse fees P0.05 per kilo of dressed meat.

Internal Organs fees P1.05 for each cow or horse.

Internal Organs fees P0.20 for each hog or pig.

Meat Inspection fees P1.70 for each large cattle.

Corral fees P0.15 for each large cattle per day or fraction thereof.

Corral fees P0.10 for each hog or pig per day or fraction thereof.

Soon thereafter, the above ordinance was approved by the Provincial Board of Rizal in its Resolution No. 824, series of 1946.

Upon its effectivity, the defendant Municipal Treasurer started, exacting from the appellees, who were all meat vendors in the public market of the Municipality, the fees enumerated in Section 2 of the aforementioned ordinance. However, even as the appellees paid the same, they questioned the legality of Ordinance No. 24 and protested to the Treasurer, in a formal communication dated December 14, 1946, the exactions made thereunder. Later still, after finding the above representation unavailing, they addressed another formal protest to the Secretary of Interior on April 12, 1950.

Acting on the protest, the Secretary of Interior endorsed the communication of the appellees to the Provincial Board of Rizal for appropriate action. In turn, the Provincial Board sought the opinion of the Provincial Fiscal, who thereupon officially replied that in his view, Ordinance No. 24 was illegal. Thus guided, the Provincial Board passed Resolution No. 1463 revoking the said ordinance. Despite the revocation, however, the Municipality refused to discontinue the enforcement of the said ordinance and resisted the claims for the refund of the amounts collected thereunder.

Upon the foregoing, the appellees filed an action in the Court of First Instance of Rizal "to declare the ordinance in question null and void and to order the municipal treasurer of Caloocan, Rizal, to refund, after due accounting,

all the fees collected by him by virtue of the said ordinance." After trial, the lower court rendered a decision, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered declaring Municipal Ordinance No. 24, null and void, orders the defendant Municipal Treasurer to submit to this Court an accounting of all the fees collected by him from the plaintiffs as provided for in Section 2 of said Ordinance, within a period of one week from the time this decision becomes final and executory, and thereafter to refund to said plaintiffs the sums illegally exacted from them, pursuant to said illegal ordinance above-mentioned, and to pay the costs of the suit."

Appellants' motion for reconsideration having been rejected, the above decision was elevated to this Tribunal for review on the following assignment of errors:

"1. The lower court erred in declaring Municipal Ordinance No. 24, Series of 1946, of the Municipal Council of Caloocan, Province of Rizal, null and void.

"2. The lower court erred in holding that the plaintiffs-appellees paid under protest the fees prescribed in Ordinance No. 24, Series of 1946, of the Municipal Council of Caloocan.

"3. The lower court erred in ordering the defendant Municipal Treasurer to refund to plaintiffs-appellees the fees they paid pursuant to Ordinance No. 24, Series of 1946, of the Municipal Council of Caloocan."

This Court holds that the judgment of the trial court declaring the ordinance in question null and void is, save for a minor modification, fully justified in law and reason.

It is to be noted that Section 1 of Commonwealth Act No. 655, so far as material, provides:

"Section 1. Chartered cities, municipalities, and municipal districts are empowered to establish or authorize the establishment of slaughterhouses, to provide for their veterinary or sanitary inspection, to inspect and regulate the use of the same, and to charge reasonable slaughter fees. * * *." (Italics supplied.)

Unquestionably, the source of authority for the enactment of the said ordinance by the Municipality is the aforequoted provision. On that account, the conflicting claims of the parties to this case must per force be resolved in the light of what that law authorizes and sanctions.

Under the aforequoted provision of law, the Municipality is empowered to: (a) establish a slaughterhouse, (b) provide for their veterinary or sanitary inspection, (c) to inspect and regulate the use of the same, and (d) to charge reasonable slaughter fees. It is clear, then, that when the Council ordained the payment of Internal organs fees, meat inspection fees and corral fees, aside from the slaughter or slaughterhouse fees, it overstepped the limits of its statutory grant. Only one fee was allowed by that law to be charged and that was slaughter or slaughterhouse fees.

Appellants contend that "the ordinance under consideration merely prescribes two separate kinds of slaughter fees, to wit:

1. Slaughter fees on dressed meat which are otherwise designated therein as "slaughterhouse fees"; and
2. Slaughter fees on internal organs which are otherwise designated therein as "internal organs fees," which, in turn, are classified according as to whether the animal slaughtered is (a) a cow or horse, (b) a carabao, or (c) a hog or pig."

The argument was not well taken. Commonwealth Act No. 655 does not sanction, even by the most lenient inference, the drawing of a distinction between "slaughter fees on dressed meat" and "slaughter fees on internal organs." Therefore, when the Municipal Council effected a distinction between them, it had pursued an endeavor

certainly uncountenanced by the said Commonwealth Act, and the distinction resulting therefrom cannot be sustained.

Furthermore, it seems to Us patent that in providing for three other fees aside from the slaughter fees which alone is mentioned by Commonwealth Act No. 655, the Council has assumed upon itself the power to ordain a revenue measure. Accordingly, We must reassert the rule adopted by this Court in the following cases:

"License fees for revenue rest upon the taxing power as distinguished from the police power, and the power of the municipality to exact such fees must be expressly granted by charter or statute and is not to be implied from the conferred power to license and regulate merely." (*Italics supplied*) (*Cu Unjieng vs. Patstone*, 42 Phil. 818.)

"A license is issued under the police power; but the exaction of a license fee with a view to revenue would be an exercise of the power of taxation; and the charter must plainly show an intent to confer that power, or the municipal corporation cannot assume it." (*Italics supplied*) (*Cu Unjieng vs. Patstone*, *idem*, citing *Cooley*, *Constitutional Limitations*, 6th ed., pp. 242-243.)

"* * * a right to license does not imply the right to charge a license fee therefor with a view to revenue, unless such seems to be the manifest purpose of the grant." (*Italics supplied*) (*Pacific Commercial Co. vs. Romualdez and Alfonso*, 49 Phil. 917.)

Apart from the revenue-raising aspect of the questioned ordinance, however, there is still another reason why its legality cannot be upheld. In the language of the lower court,

"From the context of said aforequoted provisions, it can be seen that the only fees that a municipality can legally charge in the establishment of its slaughter house is a reasonable slaughter fee which includes all the services that a municipality may render in connection with the establishment and use of said slaughter house, as for example, fee for veterinary or sanitary inspection, fee to inspect and regulate the use of the same. But the ordinance in question aside from charging slaughter house fees charges Internal Organs fees, meat inspection fees, and corral fees which, according to the opinion of this Court, are already necessarily included in the term "slaughter house fees."

Thus far, this Court has demonstrated the legal infirmities of the disputed ordinance. It stands to reason, therefore, as the lower court had concluded, that Ordinance No. 24 should be consigned to the lot of *ultra vires* legislations. However, insofar as the decision of the court below had so invalidated the entire ordinance, We believe the succeeding modification proper and more in accord with established norms of judicial interpretation.

There are a number of rules in statutory construction which need no case citation because of their inherent logic and reasonableness. One of them is that which states that "if an ordinance is valid in one part and invalid in another part, the part which is valid may be sustained if the invalid part is severable from the rest." (6 *McQuillin*, *Municipal Corporation*, 150 ed.). Or, as expressed by another authority, "certain sections or parts of sections of an ordinance may be held invalid without affecting the validity of what remains, if the parts are not so interblended and dependent that the vice of one necessarily vitiates the others. It is only necessary that the good and bad parts be so distinct and independent that the invalid parts may be eliminated and what remains contains all the essentials of a complete ordinance." (*Elliot*, *Municipal Corporation*, p. 143).

Conformably to the above rule, We believe that the nullity of Ordinance No. 24 should comprehend solely those portions which require the imposition of internal organs fees, meat inspection fees and corral fees. Doubtless, the Council was authorized to legislate on the slaughterhouse fees.

The second assignment of error pertains to the alleged failure of the herein appellees to properly protest the enforcement of Ordinance No. 24. This claim of the appellants stemmed principally and only from the fact that the official receipts evidencing the payments under the said ordinance were not stamped "paid under protest" as is

usual with such protested disbursements.

We find no merit whatsoever in the error assigned. While the phrase "paid under protest" was indeed unstamped upon the receipts issued to the herein appellees, other conclusive evidence may be found in the record attesting to the fact that the payments were in truth made involuntarily and over appellees' vehement protests. There was, for one, the letter to the Treasurer dated December 14, 1946 formally objecting to the levy under the said ordinance. For another, it is on record that subsequent to the above letter, the herein appellees likewise addressed a communication to the Secretary of Interior unequivocally questioning the legality of the same ordinance, the collections being then undertaken thereunder, and, the refusal of the appellant Treasurer to refund the amounts by them collected. All these, We hold, refute the charge that there was no protest. In this connection, We believe it relevant to quote the doctrine expressed in the case of *Mendoza, Santos & Co. vs. The Municipality of Meycawayan, Bulacan, et al.*, G. R. Nos. L-6069 and L-6070, April 30, 1954, to wit:

"Without going into the question of whether the provisions of the National Internal Revenue Code which allows the filing of an action for the recovery of internal revenue taxes even if they are not paid under the protest may apply to an action for the recovery of taxes paid under a municipal ordinance, it may be declared that letters "sent to the Secretary of Finance questioning the legality of the ordinance and indirectly asking for the refund of the taxes paid can be considered as a protest against the execution of the said taxes by the municipal council in contemplation of law."

Finally, appellants challenge the correctness of the lower court's judgment ordering the refund of the amounts collected from the appellees. As elaborated by the appellants, "plaintiffs-appellees have, by reason of prescription lost their right, if any, to recover the fees in dispute. They filed the present action on October 31, 1951 after the expiration of more than five years since the approval of ordinance under consideration on August 18, 1946, and, after the lapse of almost one year since the subsequent disapproval of said ordinance by the Provincial Board on December 18, 1950; whereas, under Section 306 of the National Internal Revenue Code, it is required that the action for recovery of tax against the government must be filed within two years from the date the tax was paid."

Inasmuch as the provision of law invoked by the appellants themselves is Section 306 of the Tax Code, We quote the same hereunder in full:

"Section 300. Recovery of tax erroneously or illegally collected.—No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the collector of internal revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty."
(Italics supplied.)

With the above provision, it should not be difficult for the herein appellants to perceive why We cannot sustain their position. Section 306 of the Tax Code is not susceptible of a construction consistent with appellants' contention. It clearly refers exclusively to claims for refund of "national internal revenue tax" erroneously or illegally collected. The present controversy refers to a refund of "local or municipal license fees" illegally collected. We need not say more.

IN VIEW OF THE FOREGOING, modified as above indicated, the decision appealed from is affirmed. The lower court is hereby directed to order the herein appellants to submit themselves to an accounting so that the amounts collected for internal organs fees, meat inspection fees and corral fees might be determined. When they shall have been ascertained, the lower court shall order their refund to the party claimants thereto. Costs de oficio.

So ordered.

Bengzon, C J., Padilla, Bautista Angelo, Conception, Reyes, J. B. L., Barrera, Paredes, Dizon, and Makalintal, JJ.,
concur.

Judgment affirmed with modification.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.