

CARLOS PALANCA, PLAINTIFF AND APPELLEE, VS. THE CITY OF MANILA AND WENCESLAO TRINIDAD, DEFENDANTS AND APPELLANTS.

G. R. No. 15819. October 27, 1920

Ponente: MALCOLM, J.

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MALCOLM, J.:

This is an appeal from an amended decision of the Court of First Instance of the city of Manila, the Honorable Simplicio del Rosario presiding, requiring the defendant City to pay to the plaintiff the sum of P2,400 with legal interest thereon from the respective dates on which the several payments composing the amount were made, without costs. It is one of those exceptional cases in which the facts are agreed upon and the law is certain, and in which there is merely needed, in our judgment, the application of the law to the facts to decide the issue. We propose to set out in order the facts, the law, the issue, and the opinion.

FACTS.

Omitting the formal paragraphs 1 and 8 of the stipulation, the facts are:

2. That at all times between the 1st day of July, 1914, to and including the 30th day of June, 1916, plaintiff herein has been engaged in the business of distilling spirituous liquors in the city of Manila, Philippine Islands, and has been, during all of said period of time, the lawful holder of the distiller's license required by the laws of the Philippine Islands then in force for the operation and conduct of said business, and that he has paid the taxes imposed upon holders of such licenses.
3. That the premises in which plaintiff conducted his said business of wholesale liquor distiller under said license during the said period of time are located at No. 1925 Calle Anloague, Manila, Philippine Islands.
4. That between the 1st day of June, 1914, and the 30th day of June, 1916, both dates inclusive, plaintiff maintained a store at Nos. 538-540 Calle Pinpin, in the city of Manila, Philippine Islands, for the sale at wholesale of distilled liquors, as hereinafter specified; which said store is not adjacent to plaintiff's said distillery, but is entirely separate and distinct therefrom.
5. That the said store at Nos. 538-540 Calle Pinpin was operated and maintained by plaintiff solely and exclusively for the sale at wholesale of liquors distilled by him at his said licensed distillery at No. 1925 Calle Anloague; and that at no time has plaintiff sold or offered for sale, or stored or kept for sale at said store Nos. 538-540 Calle Pinpin any liquors other than those distilled by him at his said distillery; that during the period of time to which this stipulation relates no sales of the products of plaintiff's distillery were made at the distillery, but the sales of the entire product of said distillery were made at the said store at Calle Pinpin, Nos. 538-540.
6. That the defendant, the city of Manila, through the city assessor and collector, made demand upon plaintiff that he take out a wholesale liquor dealer's license and pay therefor at the rate of P1,200 a year, as a condition to

allowing plaintiff to operate and maintain his said store at Nos. 538-540 Calle Pinpin and sell therein at wholesale the liquors distilled by him pursuant to his said distiller's license; and plaintiff, therefore, under protest, took out the license required of him with respect to said store.

7. That thereafter, the plaintiff paid to the city assessor and collector of the city of Manila, acting for and on behalf of the defendant, city of Manila, and on account of the wholesale liquor dealer's license mentioned in paragraph 6 of this stipulation, the sum of P300 for each of the third and fourth quarters of the year 1914, a like sum for each of the quarters of the year 1915, and a like sum for each of the first and second quarters of the year 1916, making a total of payments made during said period of the sum of P2,400; that at the time of making the said payments, the plaintiff duly protested the same in writing; that said protests were overruled and denied, and no part of the money so paid under protest has been refunded to plaintiff.

LAW.

It will be noted that the protested payments cover the period between July 1, 1914 and June 30, 1916. The law then in force regulating the sale of intoxicating liquors within the city of Manila was the Manila Liquor License Act No. 59, as amended by Act No. 95. Sections 16 and 17 thereof, the latter as superseded by Act No. 95, provided :

"SEC. 16. Licenses for periods of one year may be issued to any person or persons of good character, authorizing him or them to conduct the business of a distiller of alcoholic liquors and to sell, give away or otherwise dispose of the products of such distillery, in quantities of one gallon (three and seventy-eight one-hundredths litres) or more, upon payment in advance of the sum of six hundred pesos. A license of this class shall be known as a 'distiller's license and it shall be unlawful for any person or persons to conduct any distillery for the manufacture of alcoholic liquors without such license, or, having secured such license, to sell, give away or otherwise dispose of the products of such distillery except as herein prescribed.

"SEC. 17. Licenses for periods of one year may be issued to any person or persons of good character, authorizing him or them to keep in stock and sell or give away fermented malt, vinous and spirituous liquors in quantities of one gallon (three and seventy-eight one-hundredths litres) or more, upon payment in advance of the sum of twelve hundred pesos; but such licenses may be paid in advance in four quarterly installments of three hundred pesos each, at the election of the licensee. A license of this class shall be known as a 'First Class Wholesale Liquor License,' and it shall be unlawful for any person or persons to sell or otherwise dispose of fermented malt, vinous and spirituous liquors at wholesale without such license, or having obtained such license, to sell or otherwise dispose of such liquors except as herein prescribed, but nothing herein shall be construed as prohibiting any person or persons holding a 'Brewer's License' or 'Distiller's License' from disposing of the products of such brewery or distillery."

ISSUE.

The sole question presented by the appeal is whether plaintiff, by taking out and paying for his license as a distiller, was entitled to sell the products of his distillery in a store separate and distinct therefrom without the necessity of taking out and paying for an additional license as a wholesale liquor dealer.

OPINION.

Although the city fiscal advances numerous canons of statutory construction which are not debatable in support of his plea for a revocation, we yet reiterate what we said in the beginning of this decision, that there is merely needed the application of the law to the facts to decide the issue. Statutes which are plain and specific should be

applied without attempted construction and interpretation. (*Lizarraga Hermanos vs. Yap Tico* [1913], 24 Phil., 504; *Philippine Railway Co. vs. Nolting* [1916], 34 Phil., 401; *U. S. vs. Fisher* [1804], 2 Cranch, 358.)

Concentrating our attention, therefore, on the specific legal provisions, it is first noted that according to section 16 of the Manila Liquor License Act, the license to be granted to stillers not only authorizes the licensee "to conduct the business of a distiller of alcoholic liquors" but also "to sell, give away or otherwise dispose of the products of such distillery, in quantities of one gallon or more." The legislative intention is reinforced by the succeeding section of the same Act as amended, which provides that persons desiring to engage in business as wholesale liquor dealers shall obtain the wholesale liquor dealer's license, with the proviso that "nothing herein shall be construed as prohibiting any person or persons holding a 'brewer's license' or 'distiller's license' from disposing of the products of such brewery or distillery." No provision of the Act limits the place of sale or disposition of the products of the licensed distiller to the distillery proper. To read into the law the words "at the place of production" would be doing violence to its phraseology and would be invading the legislative sphere.

Legislative intention is most eloquently demonstrated by a comparison of the law as it existed in 1914 to 1916 and as it now exists. The Administrative Code of 1916 in its sections 2502 and 2503 and the Administrative Code of 1917 in its sections 2530 and 2531, continue the identical language of Act No. 59 as amended by Act No. 95, but with the careful insertion of the phrases "in the distillery" and "at the place of production." Since the enactment of the Administrative Code of 1916, there can be no doubt that a distiller disposing of the products of his distillery at an establishment separate and distinct from the distillery itself must obtain a wholesale liquor dealer's license. And the fact that the Legislature found it necessary, in order to effect that purpose, to modify the terms of the original statute when reenacting it as a part of the Administrative Code, by the insertion of the words "at the place of production," shows that prior to the introduction of that amendment the statute had a different meaning. It is an express recognition on the part of the legislative branch of the government that without the use of such words of limitation the license to the distiller would permit him to sell the products of the distillery at places other than "the place of production."

Among the numerous points made by the city fiscal to support his case, is one intended to show that the Manila Liquor License Act was taken from the State of Ohio; that this is shown by the fact that the bill was presented in the Philippine Commission by its President Mr. Taft; that years before, Mr. Taft had taken part as counsel in a case before the Supreme Court of Ohio, the result of which bears out the contention of the city fiscal; and that, accordingly, the statute adopted from Ohio carried with it the construction there given to it. We agree that both pursuant to the Philippine Code of Civil Procedure (secs. 275, 313, as amended by Act No. 2210, sec. 1) and the rules of statutory construction, the courts could avail themselves of the actual proceedings of the legislative body to assist in determining the construction of a statute of doubtful import. (*U. S. vs. Pons* [1916], 34 Phil., 729; 25 R. C. L., pp. 1039, 1040.) But waiving for the moment the observation before made, to the effect that the true meaning of the language used in the statute is not at all obscure, the proceedings in the Philippine Commission prove in this instance to be of little assistance. The public session minutes of the Philippine Commission, as quoted in the brief of the fiscal, simply showed in a general way the power of the Commission to enact legislation of this character.

As to the case cited by counsel, in which Mr. Taft was an attorney (*Senior vs. Ratterman* [1887], 44 Ohio St., 661), the principal holding there was that wholesale liquor dealers not manufacturers are within the terms of the Act of the General Assembly passed May 14, 1886, and are liable to the tax therein imposed. A later decision of much more importance, which the fiscal overlooked, coming from the same court, is *Brewing Co. vs. Talbot* ([1898], 59 Ohio St., 511). In the course of the decision, it was said: "As the statute formerly stood manufacturers were exempt from the tax without regard to the place or places where they sold their product. But since the

amendment of March 21, 1887 (84 O. L., 224) they are so exempt only when they confine their business to selling at the manufactory. By that amendment the words 'at the manufactory' were inserted as they now appear in sections 4364-16, above quoted, and they are so far restrictive of the class of exemptions from the tax as they existed prior to the amendment, that thereafter manufacturers who should engage in the business of selling their liquors elsewhere than at the manufactory, become liable to the tax like other dealers. If that was not the purpose and effect of the amendment it had none whatever." If then the fiscal's rather far-fetched assumptions predicated on the statutes of Ohio show anything, it is that in Ohio, like in the Philippines, legislative amendment was required before liquor manufacturers became liable to the tax imposed on other dealers.

We hold that under the law in force during the period to which this litigation relates, the plaintiff under his distiller's license could not be required to take out an additional license as a wholesale liquor dealer for the sale of the products of his distillery.

Two minor points require brief consideration before we bring this decision to a close. The judgment of the trial court permitted the plaintiff to recover the amount of the license fee paid under protest with interest. This was correct for a number of reasons. In the first place, the Manila Liquor License Act, both as previously existing and as now existing, is a part of the Manila Charter; so that under no condition would section 1579 of the Administrative Code of 1917 permitting actions for the recovery of internal revenue taxes illegally collected "without interest," be applicable. And in the second place, this action concerns taxes collected before the enactment of said section 1579 (*Hongkong & Shanghai Banking Corporation vs. Rafferty* [1918], 39 Phil., 145)

On the insistence of the fiscal, the trial court was persuaded to amend the judgment rendered by eliminating therefrom the payment of costs by the defendant to the plaintiff. In so doing the attorney led the court to commit an error which, unfortunately, cannot now be righted, since the plaintiff did not appeal, by misinterpreting the language of our decision in *Hongkong & Shanghai Banking Corporation vs. Rafferty*, supra. The ruling in that case was that no costs shall be allowed against the Government of the Philippine Islands where the Government is the unsuccessful party. There is, however, a marked difference between sovereignties, such as the United States, and States, and governments such as exist in Porto Rico and the Philippine Islands, and public corporations which sue and can be sued. It is admitted herein that the defendant is the City of Manila. Consequently, the general rule that costs are imposed upon the unsuccessful party applies in municipal corporation cases. Plaintiff has the right to his costs in this instance.

Judgment is affirmed, with costs against the appellants. So ordered.

Mapa, C. J., Johnson, Araullo, Avanceña and Villamor, JJ., concur.

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