

FELISA REGALA, PETITIONER AND APPELLANT, VS. MARGARITA DE GUZMAN AND THE HON. ARSENIO H. LACSON, MAYOR OF THE CITY OF MANILA, RESPONDENT AND APPELLEES.

G.R. No. 17337. October 30, 1964

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Originally brought to the Court of Appeals, this appeal was forwarded to us because it raises questions of law only.

On July 11, 1959, Felisa Regala filed this petition for certiorari with injunction in the Court of First Instance of Manila, alleging the following facts [which her adversaries practically admit^[1]]:

1. Felisa Regala and Margarita de Guzman are both stallholders in the Paco Market, Manila. Up to 1958, the former occupied stalls numbered 1742 to 1744, while the later held stalls numbered 1732 to 1733, of the same market.
2. Shortly before 1958, the Market Committee decided on re-arranging stalls numbers 1702 to 1777. And on January 29, 1958, the Market Master submitted a memorandum to the Treasurer embodying the proposed changes. In such memorandum, Regala was assigned stalls numbers 1720 to 1722 (instead of 1742-1744).
3. The City Treasurer indorsed the memorandum to the Market Committee, which held a meeting on February 1, 1958, to act on the changes. At this meeting, according to Regala, Margarita de Guzman appeared and opposed the re-arrangement of the stalls. Overruling her opposition the Market Committee upheld the change and gave her seven days within which to choose from among four vacant corner stalls in the market.
4. Later, de Guzman formally protested, in writing, the decision of the committee. Nevertheless, on February 27, 1958, the market Committee reaffirmed its stand, "recommending favorable consideration on the re-arrangement of stall," and requested that "this matter be referred to the City Fiscal for opinion".
5. In his fifth indorsement to the mayor, the City Treasurer concurred with the recommendation of the Market Committee. The Mayor, however, returned the paper to the City Treasurer with the request that the legal points desired by the Market Committee be clarified with the City Fiscal "so that intelligent action may be taken in the premises". The City Treasurer transmitted this request to the Market Committee.
6. On April 25, 1958, the Committee returned the papers to the City Treasurer in an 8th indorsement, insisting on its decision. In a 10th indorsement dated May 13, 1958, the respondent Mayor again returned the paper to the Market Committee, thru the City Treasurer stating,

"* * * But the question here, this Office believes from a perusal of the records, is whether Committee should compel Margarita de Guzman to choose stalls other than, and far from her previous stalls and whether this is just and fair under the circumstances, considering that there was no abolition of former stalls in the said

market, but merely a re-arrangement thereof. * * *

"And considering further that according to the complaint, one Anastacia de la Cruz, holder of the stalls opposite complaint's stalls before the re-arrangement, was assigned and given preference to occupy the same stalls she previously occupied. * * *."

7. The Market Committee, in an eleventh indorsement dated June 17, 1958, explained:

"The primary consideration in effecting re-arrangement, re-grouping, and/or transfer from one section, or stall, to another, of vendors in the city markets, is the resulting efficient and sanitary operation of the business therein. It cannot be denied that in the re-arrangement of stalls in the Paco Market, the same redounds to the promotion of business interests of the stallholders affected, the increase in market collections, and improved sanitation in the premises. * * * This Committee is aware that it cannot compel stallholder, particularly Margarita de Guzman, to choose and/or occupy market stalls. However, as provided for under Section 18 of the Market Code, and because the circumstances so warrant, her assignment to Stalls Nos. 1748-1749, Paco Market, is being made by the Committee, in order to expedite the re-arrangement of stalls in the said market, which re-arrangement had already been favorably recommended by the Committee * * *."

8. Finally, in his 13th indorsement, dated July 3, 1958, the City Mayor issued the following order:

"Respectfully returned to the City Treasurer.

"After a careful perusal of these papers this Office finds that while the re-arrangement of stalls in the Paco Market as recommended by the Market Committee and approved by that Office would redound to public benefit, yet the transfer of Margarita de Guzman to any one of the four set of vacant corner stalls reserved for her by the Market Committee is not in consonance with fairness and equity considering the surrounding facts of the case. Insofar as the relocation of stallholders as a result of the re-arrangement of stalls made by the Market Committee is concerned, it is patent that the same is not in accord with the findings of Fiscal Melecio Aguayo, a member thereof, who made an ocular inspection of the place and whose report is embodied in the minutes of the Committee of April 15, 1958. Inasmuch as the finding of Fiscal Aguayo have not been disputed by the Committee and no adequate reason has been adduced to explain why another stallholder, Anastacia de la Cruz, was allowed to retain her former position, when the circumstances of their occupancy are practically the same, this Office is constrained to disagree with the Committee in this regard.

"In view of the foregoing, this Office, therefore, finds that the recommendation of the Market Committee to transfer Margarita de Guzman from her former position to any one of the four sets of vacant stalls above-mentioned is not well taken and that said stallholder should be, as she is hereby, allowed to occupy her former position which, it is understood, she is actually holding now." (Italics ours.)

9. Regala moved for a reconsideration; but the Mayor maintained his stand.

10. So, nine months later, or on July 11, 1959, asserting "grave abuse of discretion and/or in excess of jurisdiction", Regala filed this suit to annul said order of the City Mayor and to compel Margarita de Guzman to turn over to her stalls Numbers 1720 and 1721 (which stalls she apparently is holding by virtue of an award by the Committee previous to the award to Regala.)

The Manila court, by order dated July 20, 1959, required the respondents to answer the petition. The same order fixed July 24, 1959, for the hearing on the petition for a writ of preliminary injunction.

On this last mentioned date, even in the absence of the respondents, the judge, without receiving any evidence, dismissed the petition, holding that as the matter was purely administrative and that the act complained of was within the powers of the City Mayor of Manila, the Court had no authority to intervene.

The petitioner Regala appealed.

We find that she has not advanced any convincing argument to rebut the lower court's opinion that the matter was entirely administrative, coming within the powers of the respondent Mayor. Neither has she proven abuse of authority on the part of said official. The reasons given by the Mayor do not show misuse of power.

And the lower court's conclusion appears to have some basis. The Revised Charter of the City of Manila gives the Mayor immediate control over the executive functions of the city departments^[2] including the Treasurer's Office. Also, the Market Code of the City of Manila declares as final the Mayor's decision on any appeal from resolutions of city officials, "unless otherwise decreed by competent legal authorities".^[3] This last part referring undoubtedly to the supervision of the Secretary of the Interior (now the President) over the actuations of the Manila executive.^[4]

This brings out another reason why Regala's suit must fail. It does not appear that she has exhausted her administrative remedies: by appealing to the President's Office.

But appellant insists that "since the trial court had found the petition to be so sufficient in form and substance, as to justify an order to answer it, said court erred in not hearing the case and in not allowing the petitioner to present her evidence.

The argument is not new; we have held:

"Equally without merit is the contention that it was error for the lower court to dismiss the petition for certiorari without hearing and without giving petitioner an opportunity to present her evidence. * * * On principle, dismissal would also be proper if before answer is filed, the attention of the court is called to the fact that from its own allegations, the petition appears to be without merit. It is obvious that in such a case, a trial would be but an empty gesture which may and should be dispensed with."^[5]

Wherefore, having been shown no valid reason to reverse the appealed decision, we hereby affirm it with costs against petitioner-appellant.

Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

[1] On page 3, Joint Brief of the respondents-appellees.

[2] Republic Act No. 409, sec. 9.

[3] Ordinance No. 2898, sec. 49.

[4] Hebron vs. Reyes, 104 Phil., 175 and sec. 9, Republic Act 409.

[5] Avisu vs. Vergara, L-3934, December 28, 1951, 90 Phil., 621.

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