

KAMUNING THEATER, INC., DOING BUSINESS UNDER THE NAME AND STYLE OF PROJECT 4 MARKET AND LORETO F. STEWART, PETITIONERS, VS. QUEZON CITY AND NORBERTO S. AMORANTO, MAYOR OF QUEZON...

G.R. No. 19136. February 28, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a decision of the Court of Appeals, reversing that of the Court of First Instance of Rizal, in the above entitled case.

The facts are set forth in said decision of the Court of Appeals, from which we quote:

"It appears that on January 20, 1956, appellant Quezon City approved Resolution No. 2496, authorizing petitioner-appellee, Loreto F. Stewart to operate a 'supermarket' in Project 4, Quezon City as defined therein.

"In operating the supermarket, it was discovered that fresh fish, meat and other perishable goods were sold in various stalls therein, unrefrigerated.

"On May 5, 1959, the respondent-appellant Quezon City Council approved Resolution No. 4761, withdrawing from Mrs. Stewart the privilege of selling unrefrigerated foodstuffs, such as fresh fish, meat, fruits, vegetables, poultry products and other perishable goods, on grounds stated in the Resolution. In this wise:

'Whereas, on January 20, 1956, the City Council of Quezon City approved Resolution No. 2496, authorizing Mrs. Loreto F. Stewart to operate a supermarket in Project 4, Quezon City, under certain conditions:

'Whereas, Mrs. Loreto F. Stewart has actually engaged in the sale of foodstuffs, meat, fish, fresh vegetables, poultry products, and other perishable goods in her supermarket which should properly be undertaken in a public market;

'Whereas, a public market within the vicinity of the Stewart Supermarket (formerly known as Dimaculangan Market), constructed under the authority of the City Council, is now open to the public and at which the sale of foodstuffs, meat, fish, fresh vegetables, poultry products, and other perishable goods may properly be undertaken;

'Whereas, Mrs. Loreto F. Stewart has not complied with the provisions of paragraph 5 of Resolution No. 2496 regarding the installation of equipment or machinery for the refrigeration of perishable goods in her market, Now, Therefore, be it

'RESOLVED BY THE COUNCIL OF QUEZON CITY TO amend as it does hereby amend Resolution No. 2496, series of 1956 authorizing Mrs. Loreto F. Stewart to operate a supermarket in Project 4, Quezon City, so as to withdraw from the operation of the said supermarket the sale of foodstuffs and other commodities such as fish, fresh fruit, meat, vegetables, poultry products, and other perishable goods, (pp. 14-15, Rec. on Appeal.)'

"On June 30, 1959, petitioners-appellees filed the present petition for injunction, alleging that Resolution Numbered 4761 is null and void, it being:

'a) In violation of the 'due process clause' of Article II, Section 1, paragraph 1, of the Philippine Constitution, for it deprives, the herein petitioner, Kamuning Theater, Inc. of its rightful exercise of property rights, which under the contract executed by and between the herein petitioner, Kamuning Theater, Inc. and the respondent, Quezon City, the herein petitioner Kamuning Theater, Inc. for valuable consideration, validity acquired from the respondent Quezon City, the said right to sell perishable goods in its market; said property right, therefore, constitutes vested right in favor of the herein petitioner, Kamuning Theater, Inc.

'b) In violation, of the equal 'protection clause' of Article III, Section 1, paragraph 1 of the Philippine Constitution for it legislates a legitimate private enterprise which is the herein petitioner, Kamuning Theater, Inc. cut of business in favor of another privately owned enterprise engaged along the same line of business, which is the Dimaculangan Market, although under paragraph 3 of Resolution Numbered 4761 the Dimaculangan Market was falsely, erroneously and maliciously referred to as a private market; the truth of the matter is that the Dimaculangan Market is a public market and not a private market, as alleged under paragraph 3, of Resolution Numbered 4761.

'c) In violation of Article II, Section I, paragraph 10 of the Philippine Constitution for it impairs the obligation of contracts.

'd) In violation of the generally accented principles of separation of powers of the three branches of the government, namely—the executive, legislative and the judiciary.'

"On July 6, 1959, respondents resisted the action alleging that:

'a. There was no contract entered into between her and the City Government. Resolution Numbered 4761 contains certain conditions which Mrs. Stewart is at liberty to reject or approve; and the fact that she had paid the annual license fee of P3,000.00 does create an implied contract because this is not the only condition imposed in the said resolution.

'b. Assuming for the sake of argument that there is such a contract between Mrs. Stewart and the City Government, the same did not include the right to sell perishable goods because under the resolution, Mrs. Stewart was only authorized to sell grocery goods, foodstuffs, dry goods, liquor and refrigerated goods.

'c. Again, assuming for the sake of argument, that there is such a contract. Mrs. Stewart has consistently violated condition No. 5 of the resolution, consequently, she cannot violate the contract and at the same time ask for its enforcement.

'd. Family, assuming that there is such a contract, Resolution Numbered 4761 whose enforcement is sought to be enjoined in this action is a valid exercise of the police power, in the interest of the public health.'

"On July 31, 1959, the lower court rendered judgment declaring Resolution Numbered 4761 null and void and making the writ of preliminary injunction issued earlier permanent, on the ground that petitioners had not violated the conditions set forth in Resolution No. 4709, because the evidence showed that an adequate refrigeration system had in fact been installed by petitioners."

However, the Court of Appeals, held that

"* * * the decisive issue in this case is not whether there was in fact a refrigeration system in the supermarket of petitioner Mrs. Stewart, but whether or not she was authorized to undertake the sale of fresh, unrefrigerated meats, fish and other perishable foodstuffs, under the provisions of Resolution No. 2496."

and that the latter question should be decided in the negative. Accordingly, it reversed the decision of the court of first instance and dissolved the injunction issued by the same, as well as rendered judgment dismissing the

petition, with costs against petitioners Kamuning Theater, Inc. and Loreto F. Stewart. Hence, the latter have interposed the present appeal by certiorari, and insist that the aforementioned Resolution No. 4761 violates the due process and equal protection clause, as well as impairs a contractual obligation and infringes Article 1191, paragraph 3, of the Civil Code of the Philippines, aside from asserting that the Court of Appeals had evaded the real issue in this case.

The last pretense is predicated upon the theory that the true issue is whether or not petitioners herein had provided their supermarket with the refrigeration equipment required in Resolution No. 2496. It is true that this was one of the issues raised in the court of first instance and the Court of Appeals, and that in an ocular inspection made on July 15, 1959, four (4) freezers—one of which was not functioning—one refrigerator and (5) coca-cola coolers, were found in the aforementioned supermarket. But, apart from the fact that this circumstance does not necessarily show that said equipment were in petitioners' supermarket when Resolution No. 4761 was approved on May 5, 1959, we find that the aforementioned statement of the Court of Appeals, as regards the decisive issue in the case, is correct.

With respect to the validity of Resolution No. 4761, the Court of Appeals said:

"Resolution No. 2496 of Quezon City, authorizing Mrs. Stewart to operate a supermarket in Project 4, defines 'supermarket', as follows: ,

'Supermarket is a place designated by municipal authorities of a city or of an incorporated town for the sale of grocery goods, food stuffs, dry goods, liquor, and other commodities such as meat, fresh fruits, poultry products, milk and vegetables necessary or . convenient for the subsistence of the community tftfit are refrigerated,' (Italics supplied.)

"It is noted that Mrs. Stewart was authorized to operate, not a public market, wherein fresh meat, fresh fish and other fresh perishable food-stuffs are sold, .but only a 'supermarket' as defined in the Resolution. Indeed, even without such definition, it is a matter of common knowledge that a supermarket is quite different from what is commonly known as a general public market. A supermarket is generally understood to be an establishment wherein canned goods, dry goods and refrigerated meats and fish are sold. From the definition above-quoted, it is seen that the City Council took pains to state that what may be sold in said supermarket are, in addition to groceries, dry goods and liquor, which by their very nature need not be refrigerated, 'other commodities such as meat, fresh fruits, poultry products, milk and vegetables * * * that are refrigerated'. It is thus plain that what Mrs. Stewart was authorized to sell was merely refrigerated meats, and other refrigerated foodstuffs. It did not authorize, her to sell unrefrigerated fresh meat or fresh fish. Notwithstanding lack of authority, however, Mrs. Stewart actually engaged in the sale of unrefrigerated fresh meat, fish, vegetables and poultry products. It was precisely to meet the situation that Resolution No. 4761 was enacted to specifically prohibit Mrs. Stewart from undertaking the sale of such fresh perishable meats and fish, thus:

RESOLVED BY THE COUNCIL OF QUEZON CITY to amend as it does hereby amend Resolution No. 2496, series of 1956, authorizing Mrs. Loreto F. Stewart to operate a supermarket in Project 4, Quezon City, so as to withdraw from the operation of the said supermarket the sale of foodstuffs, and other commodities such as fish, fresh fruit, meat, vegetables, poultry products, and other perishable goods.

"In prohibiting her from undertaking the sale of said unrefrigerated fresh meat and other fresh perishable foodstuffs, Mrs. Stewart has absolutely no reason to complain, because, as hereinabove pointed out, the only privilege granted to her was to operate a supermarket wherein refrigerated meats and other refrigerated foodstuffs may be sold. She was never authorized to sell unrefrigerated fresh meat, fresh fish and other fresh perishable stuffs, the sale of which is properly undertaken in ordinary public markets. Hence, when Resolution No. 4761 was

approved prohibiting her from selling unrefrigerated fresh meat, etc. in her supermarket, she was not being deprived, of any right granted her under Resolution No. 2496.

"Indeed, in the minutes of the session of the Quezon City Council held on May 5, 1959, introduced by petitioners-appellees as Exhibit 'G', the following remarks were made in connection with the assailed Resolution:

'COUN. VELUZ:

* * * * *

This is not a question of withdrawing, because, really, as contained in the original resolution, it is not the intention of the City Council for perishable goods to be sold there and it is a matter of imposing a resolution which has not been declared illegal. My question now is: Can the City Government just ignore its own resolution? If it is a matter of accommodation, I believe since the establishment, of this supermarket in 1954 up to the present, we have already given so many accommodations. * * *

From the very beginning, this is known already. Precisely, if the City Council yielded in 1954, it is because we believe that because of the expenses which the owner had already incurred, the City Council would be fair and considerate enough, and it has gone beyond the limit. If we perpetuate this, the city will be deprived of its legitimate earnings from the public market;

* * * * *

'Sapagkat dito naman ay hindi natin inuulong ang karapatan niyang magpalakad. Ang hinihingi lamang ng resolusyon na ito, para maliwanagan na at katunayan naman ay hindi sakop ng resolusyon ni Mrs. Stewart, ay ang 'perishable goods', katulad ng karne, isda, itlog, gulay, at ibapa, ay nawala na o maalis sa kanyang "supermarket" sapagka't hindi naman kasama sa balak o doon sa unang pinagkasunduan na ang 'perishable goods' ay malagay doon, kaya lamang ay pinagkalooban siya nang 'supermarket'." (pieza of Exhibits, pp- 25-27 and 35.)

We fully agree with this view, with only one qualification. The Court of Appeals considered Resolution No. 4761 as merely prohibiting petitioners from selling 'unrefrigerated fresh meat, fresh fish and other fresh perishable stuffs'. However, the body of said resolution literally withdraws "from the operation of the said supermarket the sale of foodstuffs and other commodities such as fish, fresh fruit, meat, vegetables, poultry products and other perishable goods", without any qualification, and, hence, could be understood as prohibiting the sale of the aforementioned goods, whether refrigerated or not. To the extent that may be construed as excluding from petitioners' right the sale of said goods, even if refrigerated, Resolution No. 4761 would amount, therefore, to a denial of due process and to an infringement of the impairment clause, and, since, the alleged violation by them of the terms of Resolution No. 4761, for failure to install the requisite refrigeration system, has not been satisfactorily proven, we adopt the view taken by the Court of Appeals in the sense that petitioners may not, under Resolutions Nos. 2496 and 4761, sell fresh meat, fresh fish, fresh vegetables, poultry products, foodstuffs and other perishable goods, but only when unrefrigerated.

Petitioners invoke paragraph 3 of Article 1191 of the Civil Code of the Philippines providing that:

"The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period."

in support of the proposition that they should have been given a period within which to comply with the requirements of Resolution No. 2496. This pretense might have a semblance of validity if the issue were limited to whether or not they had failed to equip their supermarket with the refrigeration system required in said resolution. But, as already pointed out, the same never authorized the petitioners to sell foodstuff, meat, fish, vegetables, poultry products and other perishable goods which are not refrigerated. Hence, there could be no

possible extension of time for the sale of unrefrigerated perishable goods.

With the aforementioned qualification that petitioners shall not be deemed deprived of the right to sell foodstuffs, fresh meat, fresh fish, fresh vegetables, poultry products and other perishable goods if refrigerated, the decision of the Court of Appeals is hereby affirmed, therefore, without special pronouncement as to the costs in this instance. It is so ordered.

Bengson, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal. JJ., concur.,

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