

CEBU AUTOBUS CO., PLAINTIFF AND APPELLEE, VS. ANDRES D.DAMIAN, DEFENDANT AND APPELLANT.

G.R. No. 30382. March 05, 1929

Ponente: JOHNS, J.

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JOHNS, J.:

The question presented involves the construction of Act No. 3045, known as the Motor Vehicle Law, of which sub-sections (a), (b), (c), (d) and (g), of section 14, are as follows:

"(a) The Director of Public Works shall cause to be prepared a form, which shall be furnished free of charge upon request, and upon which every person who desires hereafter to operate any motor vehicle as a chauffeur shall answer under oath all questions asked and give all information required by the Director of Public Works, including his true name, address and age, the number, date, and place of issue of his cedula, and the names, kinds, types, or styles of motor vehicles which he is competent to operate, together with the form and amount of their motive power, and whether his senses of sight and hearing are normal.

"(b) The Director of Public Works or his deputies are hereby authorized in their discretion to require an applicant for a license as chauffeur to answer such further questions or to submit to such an examination touching his qualifications as chauffeur, as in the judgment of the Director of Public Works or his deputies, will best disclose the applicant's fitness and competency to operate motor vehicles.

"(c) If after such, examination, or without the same, the Director of Public Works or his deputies believe the applicant to possess the necessary qualifications and knowledge, they shall, upon the receipt of a fee of five pesos, issue to such applicant a license to operate as a chauffeur, motor vehicles of the kind, style, type, or make and power described in the application, until the last working day of February next following", or until such license is otherwise revoked. Each applicant for a license as chauffeur, except an owner not operating for hire, shall, upon notice that his qualifications have been found satisfactory, and prior to the issuance of said license, furnish the Director of Public Works or his deputies, three copies of a recent and readily recognizable photograph of said applicant, one copy of which shall be securely attached to the license, and two copies of which shall be filed and kept as provided under section eighteen of this Act. If the said Director or his deputies do not believe the applicant to be a person qualified to operate motor vehicles, they shall not issue a license as chauffeur to such applicant, in which event the applicant's fee shall be returned to him.

"(f) The Director of Public Works may suspend for a period not exceeding three (3) months or, after hearing, revoke any license issued under the provisions of this Act, and may order any such license to be delivered to him whenever he has reason to believe that the holder thereof is an improper or incompetent person to operate motor vehicles, or is operating or using a motor vehicle in, or as an accessory to, the practice or commission of any unlawful act, or so as to endanger the public; and the license so suspended or revoked shall not be reissued, unless upon investigation, the Director of Public Works decides that the operator may again safely be permitted to operate.

"(g) Appeals from the decision of the Director of Public Works on the revocation of, or; his refusal to renew, licenses under the provisions of this section may be taken to the Secretary of Commerce and

Communications."

As such provisions are connected with, and relate to, section 47 of the Act, which is as follows:

"The Director of Public Works is hereby authorized with the approval of the Secretary of Commerce and Communications to designate as his agent and deputies, district engineers or provincial or municipal treasurers at such places and offices as he may deem expedient to assist in carrying out the provisions of this Act, And each and every district engineer or provincial or municipal treasurer so designated is hereby vested with all the power and authority which is conferred by this Act upon the Director of Public Works or his deputies, as defined in subsection (o) of section one of this Act. And the Director of Public Works is hereby authorized and empowered to formulate and issue with the approval of the Secretary of Commerce and Communications such administrative rules and regulations as may be found necessary to govern his agents and deputies and to give full effect to the provisions of this Act."

Subsection (a) of section 14, provides that the Director of Public Works shall prepare the form for the application of a license and the questions which the applicant is required to answer. Subsection (b) provides that the "Director of Public Works or his deputies" in their discretion may require an application for a license as chauffeur to answer such further questions "as in the judgment of the Director of Public Works or his deputies, will best disclose the applicant's fitness and competency to operate motor vehicles." Subsection (c) provides that if the "Director of Public Works or his deputies believe the applicant to possess the necessary qualifications and knowledge," they shall issue the license upon receipt of P5, and that "if the said Director or his deputies do not believe the applicant to be a person qualified to operate motor vehicles," they shall not issue the license. It will be noted that in subsection (f) of this section, the words "or his deputies" are omitted and do not follow the words "Director of Public Works."

Subsection (b) of section 20, provides as follows:

"The Director of Public Works or his deputies shall, in accord with rules to be determined and published by the Director of Public Works, fix the maximum carrying capacity in passengers or freight, of all motor vehicles with the exception of private passenger automobiles. The carrying capacity thus fixed is to be entered on the certificate of registration and the 'Motor Vehicle Register' and thereby made of record, as will the Director of Public Works or his deputies also fix and record in the same manner the number of persons permitted on the front or driver's seat of any motor vehicle."

The same thing is true as to section 47 which provides:

"The Director of Public Works is hereby authorized, etc."

That section also provides:

"And each and every district engineer or provincial or municipal treasurer so designated is hereby vested with all the power and authority which is conferred by this Act upon the Director of Public Works or his deputies, as defined in subsection (o) of section one of this Act."

And subsection (o) of section 1 provides:

"The Director of Public Works or his deputies' is defined as the actual or acting chief of the Bureau of Public Works or such representatives, deputies, agents, or assistants, as he may, with the approval of the Secretary of Commerce and Communications, authorize or detail in writing for the purposes contemplated by this Act."

And section 47 further provides that the Director of Public Works is authorized, with the approval of the Secretary of Commerce and Communications, to formulate such "rules and regulations as may be found necessary to govern his agents and deputies and to give full effect to the provisions of this Act."

The Act contains fifty-four different sections, and is entitled "An Act to amend and compile the laws regulating motor vehicle traffic in the Philippine Islands, the laws providing for the registration of motor vehicles and the licensing of motor vehicle operators, the laws requiring lights of all vehicles using highways at night, and the laws prescribing penalties for violations thereof, and for other purposes."

It is very apparent that its purpose and intent is to provide rules and regulations for motor vehicle traffic, and that it vests the authority for the issuance of chauffeur's license in "the Director of Public Works or his deputies," and that it gives the Director control and supervisions over chauffeurs.

It is a matter of common knowledge that the volume of motor vehicle business is increasing very fast in the Philippine Islands, and that daily many thousands of persons are riding in autobuses operated under the Public Utility Law; that the lives of all such passengers are more or less at the risk and depend upon the skill, ability and care with which the autobus is operated by the chauffeur. It is also a matter of common knowledge that a large number of them are careless, reckless and negligent in the discharge of their duties, and it is almost a daily occurrence that some passenger is killed or injured, through the negligence or want of skill of the chauffeur. It is very apparent from the reading of the whole of Act No. 3045, that it was the purpose and intent of the Legislature to prevent injuries and accidents, and to insure the safety of the traveling public in so far as it was possible to do so. In the very nature of things, the Director of Public Works cannot spread his person out all over the Islands, and to carry out the purpose and intent of the Act, it is necessary for him to act and speak through deputies on the ground, who are presumed to have at least some knowledge of the personal habits and conduct of the chauffeur, the manner in which he operates the car, and whether or not, for good and sufficient reasons and the safety of the travelling public, his license should be suspended. In legal effect, and in the very nature of things, any other construction of Act No. 3045, would leave chauffeurs without any control or supervision over them by any one. That is to say, if the Director of Public Works in person only has the power to suspend the license of the chauffeur for misconduct, no matter how grave might be the offense, the purpose and intent of the law would be defeated, could not and would not be enforced, for the simple reason that there would not be any person to enforce it. It must be conceded that under section 14 of the Act, the deputies of the Director of Public Works have the legal right to issue the license and to carry out its purpose and intent. It must follow that they would also have the right to suspend the license; otherwise, the traveling public would be at the mercy of incompetent and irresponsible chauffeurs. That was never the purpose and intent of the law.

Again, a chauffeur's license is nothing more than a permit to operate a motor vehicle, and is issued on his own showing and the assumption that he is competent and qualified, and the license may be issued by a deputy of the Director of Public Works. As stated, to hold that the license may be issued by a deputy, and that it can only be suspended by the Director of Public Works, in actual practice, would nullify the spirit and intent of the Act, which is to insure the safety of the travelling public. This does not mean that a deputy, without a good and sufficient cause, or in an autocratic manner, may suspend the license of any chauffeur, but it does mean that, if the negligence, actions and conduct of the chauffeur is such as to endanger the safety of the travelling public, that the deputy has the right to suspend his license, and that his remedy would lie in an appeal to the Director of Public Works.

The decision of the lower court is based upon the strict letter of the law, but the Act must be construed as a whole, and when so construed, the power which the deputy has to issue a chauffeur's license carries with it and implies that he also has the right to suspend the license for good and sufficient reasons and the safety of the traveling public.

The judgment of the lower court is reversed, and the petition dismissed. This being in the nature of a test case,

neither party to recover costs. So ordered.

Johnson, Street, Ostrand, Romualdez, and Villa-Real, JJ., concur.

DISSENTING

MALCOLM, J.:

Section 14 (f) of Act No. 3045, the Motor Vehicle Law, provides that "The Director of Public Works may suspend for a period not exceeding three (3) months or, after hearing, revoke any license issued under the provisions of this Act, * * *." Section 47 then authorizes the Director of Public Works to designate as his agents and deputies, district engineers or provincial or municipal treasurers "with all the power and authority which is conferred by this Act upon the Director of Public Works or his deputies, as defined in subsection (o) of section one of this Act." Subsection (o) of section 1 above referred to provides: " 'The Director of Public Works or his deputies' is defined as the actual or acting chief of the Bureau of Public Works or such representatives, deputies, agents, or assistants, as he may, with the approval of the Secretary of Commerce and Communications, authorize or detail in writing for the purposes contemplated by this Act." Appearing just before subsection (o) of section 1 is subsection (n). It reads: " 'The Director of Public Works' except where expressly stated otherwise, is defined as the actual or acting chief of the Bureau of Public Works."

From these provisions of the Motor Vehicle Law, it is evident that the Director of Public Works has the power of suspension, and that that power may be vested in a district engineer or provincial or municipal treasurer. But as to subsection (o) of section 1, it defines the phrase "The Director of Public Works or his deputies" and not the phrase "The Director of Public Works." Since according to the stipulated facts the officer who attempted to suspend chauffeur's licenses is a deputy of the Director of Public Works other than a district engineer or provincial or municipal treasurer, this deputy does not come within the purview of the law.

In the lower court, the provincial fiscal relied on section 4 of the Administrative Code providing: "A ministerial act which may be lawfully done by any officer may be performed by him through any deputy or agent lawfully created or appointed." But the power to suspend is a power involving discretion. It is the rule that without statutory authority, deputies have no power with respect to the duties of an office involving the exercise of judgment and discretion (46 C. J., 1063).

Regarding the argument made with reference to what the law should be, that is beside the point for it is for the courts to construe the law as it is. It may be for the public good to have all the deputies of the Director of Public Works possess the power to suspend chauffeur's licenses. If this be so the law should be amended to this effect.

For the foregoing reasons, I think that the decision of Judge Vickers in the trial court prohibiting the defendant from suspending chauffeur's licenses conforms to the law and should here be affirmed.

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