

THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. CARLOS PALANCA, DEFENDANT AND APPELLANT.

G.R. No. 31162. January 13, 1930

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by defendant Carlos Palanca from the judgment of the Court of First Instance of Manila, the dispositive part of which is as follows:

"Let judgment be entered against the defendant for the payment of the license fees as prescribed in sections 745 to 747 of the new Revised Ordinances of the City to the City of Manila, for the years from 1922 to 1928, inclusive, or, the amount of four thousand two hundred pesos (P4,200), with legal interest thereon at the rate of six per cent per annum, from the twelfth day of May, 1928, when the complaint was filed, plus the costs of the action. So ordered."

In support of his appeal, the appellant assigns the following alleged errors as committed by the court below in its judgment, to wit:

"1. The trial court erred in holding that the license issued by plaintiff to defendant, under and by virtue of section 2530 of the Administrative Code (Manila Charter), to distill alcoholic liquors and to sell, give away, or otherwise dispose of "his products, did not authorize him to rectify the alcohol distilled by him and convert it into wines and other alcoholic liquors.

"2. The trial court erred in not finding that in order to produce a finished, saleable product defendant had to rectify and convert into liquor the alcohol distilled by him.

"3. The trial court erred in not finding that the plaintiff has no authority to apply to the business of the defendant both section 2530 of the Manila Charter and section 747 of the Revised Ordinances."

When the hearing of the present case began, the parties submitted it for decision upon the following agreed statement of facts:

"AGREED STATEMENT OF FACTS

"1. That the plaintiff is a municipal corporation duly organized and existing under the laws of the Philippine Islands with principal office at the City Hall, Manila, and with power to sue and be sued; and that defendant is of lawful age and a resident of the City of Manila.

"2. That in the year 1918, the plaintiff in the exercise of the power granted by the Manila Charter to regulate and fix the amount of the license fees for rectifiers, enacted Ordinance No. 717 which is embodied as sections 745 to 747, Chapter 75, of the new Revised Ordinances of the City of Manila.

"3. That during the period comprised between the years 1922 and 1928, inclusive, the defendant has been engaged in, or has conducted, the business of a distiller of alcoholic liquors, under and by virtue of a license issued by the plaintiff to him from year to year pursuant to section 2530 of the Administrative Code, and that

in order to be able to sell and dispose of the products of defendant's distillery establishment, defendant rectifies said products.

"4. That the process by which the defendant manufactures alcoholic liquors is as follows: (1) Molasses, which is the only raw material used, is fermented and distilled into alcohol by either or both of two processes: (a) The fermented molasses is pumped into a distilling apparatus, and by continuous process comes out of the apparatus, rectified alcohol: or (b) the fermented molasses is pumped into a distilling apparatus and comes out crude alcohol, which is again pumped into another distilling apparatus and comes out rectified alcohol. (2) The rectified alcohol is then made into wines and other alcoholic liquors, by mixing various ingredients.

"5. That rectified alcohol converted into wines and other alcoholic liquors in the manner above described are the products which defendant sells to the public.

"6. That during the period above-mentioned defendant has not obtained nor paid the fees for the rectifier's license provided for by the above-mentioned Ordinance No. 717, notwithstanding due demands made upon him therefor by plaintiff.

"7. That during the period from 1922 to 1927, inclusive, the defendant has paid internal revenue taxes for rectifiers, as evidenced by Rectifier Privilege Tax Receipts Nos-B-3-13, B-3-12, B-3-11, B-3-10, B-3-10 and B-3-9, besides the internal revenue privilege taxes for distillers as evidenced by receipts Nos. B-2-4, B-2-3, B-2-3, B-2-3, B-2-3, and B-2-3."

The only question to be decided in the instant appeal is Whether or not by virtue of the license issued to the defendant under section 2530 of the Administrative Code, he is authorized to rectify the alcoholic liquors distilled by him.

Section 2530 of the Administrative Code provides as follows:

"Sec. 2530. Distiller's license.—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 his or their products in the distillery, in quantities of four liters 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."

It will be noted that the legal provision just quoted, besides being entitled "Distiller's license," deals with the distillation of alcoholic liquors, and the sale, gift, or disposal of the distilled products, and makes it unlawful for any person or persons to conduct a distillery for the manufacture of alcoholic liquors without such license.

Section 1465 of the said Administrative Code defines "distiller of spirits" in subsection (a) as follows:

"(a) 'Distiller of spirits' comprises all who distill spirituous liquors by original and continuous distillation from mash, wort, wash, sap, or sirup through continuous closed vessels and pipes until the manufacture thereof is complete."

The same section defines "rectifier" in subsection (c) as follows:

"(c) 'Rectifier' comprises every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, wash, sap, or sirup through continuous closed vessels and pipes until the manufacture thereof is complete. Every wholesale or retail liquor dealer who has in his possession any still or mash tub, or who keeps any other apparatus for the purpose of distilling spirits or in any manner refining distilled spirits, and every person who without rectifying, purifying, or refining distilled spirits shall, by mixing such spirits, wine, or other liquor with any materials except water,

manufacture any intoxicating beverage whatever, shall also be regarded as a rectifier and as being engaged in the business of rectifying."

Section 745 of the Revised Ordinances of the City of Manila, defines, "rectifier of distilled spirits" as follows:

"SEC. 745. 'Rectifier of distilled spirits', defined.—For the purposes of this chapter the term 'rectifier of distilled spirits' shall be construed to include every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mass, wort, wash, sap, or syrup through continuous closed vessels and pipes until the manufacture thereof is complete; every wholesale or retail liquor dealer who has in his possession any steel or mass tub, or who keeps any other apparatus for the purpose of distilling spirits or in any manner refines distilled spirits; and every person who, without rectifying, purifying or refining distilled spirits shall, by mixing such spirits, wine, or other liquor with any materials except water, manufacture any intoxicating beverage whatever."

It will be seen that there is an essential difference between a distiller and a rectifier, and the word "rectifier" is given the same definition in section 1465 of the Administrative Code and in section 745 of the Revised Ordinances of the City of Manila.

Subsections (1) and (2) of paragraph IV of the agreed statement of facts read as follows:

"(1) Molasses, which is the only raw material used, is fermented and distilled into alcohol by either or both of two processes: (a) The fermented molasses is pumped into a distilling apparatus, and by continuous process comes out of the apparatus, rectified alcohol; or (b) the fermented molasses is pumped into a distilling apparatus and comes out crude alcohol, which is again pumped into another distilling apparatus and comes out rectified alcohol.

"(2) The rectified alcohol is then made into wines and other alcoholic liquors, by mixing various ingredients."

Thus, the defendant distills and rectifies alcohol either by a continuous process of distillation first and then rectification, or by both processes, one of distillation and the other of rectification, afterwards converting the rectified alcohol into wines and other alcoholic liquors by mixing with various ingredients.

The fact that under his distiller's license he is by section 2530 of the Administrative Code permitted to sell and dispose of alcoholic liquors manufactured in his distillery, does not authorize him to rectify said spirituous liquors, since we have seen that to distill and to rectify are two essentially different processes in the manufacture of alcoholic liquors. The fact that in order to be able to sell his alcoholic products he must rectify them, does not mean that to distill and to rectify are one and the same thing, and that distilled spirituous liquors cannot be sold. Perhaps the defendant would rather continue the manufacture of alcoholic liquors rectifying them after distillation, in order thus to obtain a higher price at a lower cost.

The court below, then, did not commit the first alleged error imputed to it.

As to the third assignment of error, as section 2530 of the Manila Charter, contained in the Administrative Code, only regulates the business of distilling spirituous liquors, and not of rectifying them, and as the municipal board is authorized by section 2444, subsection (1) of the same Code, to regulate and fix the amount of the license fee to be paid by rectifiers, the trial court has not incurred the third assignment of error in holding that section 747 of the Revised Ordinances of the City of Manila does not seek to tax the business of rectifying spirituous liquors, but only to regulate it by requiring a license not provided for by section 2530 of the Manila Charter.

For the foregoing considerations, we are of opinion and so hold: (1) That a distiller of spirituous liquors who has secured a license under Section 2530 of the Manila Charter, contained in the Administrative Code, is not exempt from the payment of the license fee required of all rectifiers of distilled spirits under section 747 of the Revised

Ordinances of the City of Manila, if he rectifies the spirituous liquors distilled by himself, thus being at the same time a distiller of spirituous liquors and a rectifier of distilled liquors; and (2) that said section 747 of the Revised Ordinances of the City of Manila does not create a tax on the business of rectifying distilled spirits, but simply requires a license to regulate the same.

In virtue whereof, and finding no error in the judgment appealed from, the same is hereby affirmed in toto, with costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Ostrand, and Romualdez, JJ., concur.
Johns, J., dissents.

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