

VICTOR TAZARO, PLAINTIFF AND APPELLEE, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.*G.R. No. 33138. November 20, 1930*

Ponente: STREET, J.

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Untitled Documentbody { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

This action was instituted in the Court of First Instance of the Province of Iloilo by Victor Tazaro, for the purpose of recovering from Juan Posadas, Jr., Collector of Internal Revenue, the sum of P343.66, paid by the plaintiff under protest as internal-revenue tax assessed under section 1459 of the Administrative Code. Upon hearing the cause the trial court gave judgment in favor of the plaintiff, and the Collector of Internal Revenue appealed.

It appears that the plaintiff is a butcher who, during the period from January 1, 1925, to August 31, 1928, was engaged in the business of selling the meat, bones and hides of cows and carabaos in the market place of the City of Iloilo. The general course of business with the plaintiff is that the animals intended by him for slaughter are conducted to the public slaughterhouse where they are killed. The skins of the animals are then removed, and the meat and other parts cleaned and prepared for sale. All salable portions of the slaughtered animals, including the hides, are then taken to the plaintiff's stall in the market place, where they are exposed for sale to the public. The hides are sold in the raw state, without having received the application of salt or any other chemical substance.

During the period mentioned the plaintiff sold, in the manner stated, the hides of cows and carabaos, of the value of P17,901.33, to the firm of See Yngco & Go., a commercial establishment of La Paz, Iloilo. On or about September 12, 1929, Apolonio Elegio, as deputy provincial treasurer of Iloilo, in his capacity as representative of the Collector of Internal Revenue, assessed and collected from the plaintiff taxes amounting to P343.66 in respect to the sales of said hides for the period mentioned.

The question presented is whether the plaintiff is liable to the percentage tax on merchants' sales imposed by section 1459 of the Administrative Code. That the transactions mentioned fall within the general scope of said section is not denied, but it is claimed that the plaintiff is entitled to the exemption especially conferred under subsection (a) of said section, wherein it is declared that:

"The following shall be exempt from this tax:

" (a) Persons engaged in public market places in the sale of food products at retail, and other small merchants whose gross quarterly sales do not exceed two hundred pesos."

Concretely, the question is raised whether hides of slaughtered cattle, sold in the manner above described, are

exempt from the merchants' tax as food products.

We are of the opinion that the tax imposed upon the plaintiff in this case was properly assessed and collected, for the reason that hides taken from slaughtered cattle are not food products. The expression "food products," in the paragraph cited, should not be understood in a strained or unnatural sense but in the sense in which it is commonly and properly used, that is, as referring to articles adapted to human consumption and customarily used for food. It cannot be claimed that the hides of cattle are a food product in this sense. It is undoubtedly true that, under conditions of great stress, the hides of cattle can be used to sustain human life; and peculiar local customs may perhaps be cited in accordance with which the eating of pieces of the skin of cattle is sanctioned. But the general and proper use of such hides is for the making of leather. In the case before us the hides sold by the plaintiff appear to have been taken exclusively by one firm, and it is to be presumed that they were used or sold in ordinary course as a raw material for the production of leather. If they were in fact sold and used for human consumption, the burden of proof was upon the plaintiff to prove it. But this has not even been suggested. It seems to us that the hides of cattle are somewhat like the horns, hoofs, and bones, all of which may be used industrially, but they are not food products.

It follows that the trial court erred in giving judgment for the plaintiff to recover the taxes which gave rise to this action. Said judgment will therefore be reversed, and the defendant absolved from the complaint. So ordered, without costs.

Avanceña, C. J., Johnson, Malcolm, Villamor, Ostrand, Johns, Romualdez and Villa-Real, JJ., concur.

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