

THE MUNICIPALITY OF MAJAYJAY, PLAINTIFF AND APPELLEE, VS. TOMAS DIZON ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 35838. February 09, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is an appeal taken by the provincial board of Laguna, the Chief of the Executive Bureau, the Director of Public Works, the Secretary of Commerce and Communications and the Secretary of the Interior, from the judgment rendered by the Court of First Instance of the same province declaring illegal the "General regulations governing the administration, operation and maintenance of municipal and provincial waterworks" promulgated by the Director of Public Works and the Chief of the Executive Bureau on January 14, 1925, and later, approved by the Secretary of Commerce and Communications, the Secretary of the Interior and the Governor-General by Executive Orders Nos. 6 and 7, series of 1925 and 1926, respectively, and converting the preliminary injunction issued therein into a final and permanent one, without special pronouncement as to costs.

The relevant facts necessary for a clear comprehension of the case are stated in the following stipulation of facts submitted by the parties:

"STIPULATION OF FACTS

"1. That the plaintiff in this case, the municipality of Majayjay, is a municipal corporation duly organized and existing in accordance with the laws of the Philippine Islands;

"2. That Tomas Dizon is the provincial governor of the Province of Laguna and Cirilo Villamin and Apolonio Elevado are members of the provincial board of Laguna, and the three together compose and constitute the provincial board of the Province of Laguna; that Vicente del Rosario has resigned as Chief of the Executive Bureau, and he has been substituted by Eulalio Suaco, who has been designated and is now acting as Chief of the Executive Bureau; that A. D. Williams is the Director of Public Works; that Honorio Ventura is the Secretary of the Interior; that Filemon Perez is the Secretary of Commerce and Communications, and that all these persons have been defendants, in view of the position which they are thus holding;

"3. That there is now a waterworks system in the municipality of Majayjay supplying water to the inhabitants of the said municipality, which water system was constructed in or before August, 1920;

"4. That the said waterworks system has been constructed with the following funds:

"(a) The proceeds of bonds issued under the provisions of Act No. 2773, approved by the Philippine Legislature, March 8, 1918, in the amount of P16,686.06, duly guaranteed by the Insular Government;

"(b) Insular aid taken from the ordinary public works funds provided for in the general public works bills, in the amount of P22,000;

"5. That as Honorable Pedro Guevara, while Senator for the Fourth Senatorial District, was the one responsible for the approval of Act No. 2773, the waterworks system of Majayjay was named Guevara Waterworks

System, as shown by a resolution of the municipal council, a copy of which is made a part hereof as Exhibit A;

"6. That about one year after the waterworks system of Majayjay was formally opened and in operation, the municipality of Magdalena, a neighboring town of the municipality of Majayjay, has also constructed a water system to supply water to its inhabitants, which was connected with the aforesaid waterworks system of Majayjay by virtue of a contract executed between the two named municipalities, copy of which is made a part hereof and marked Exhibit B, and that said contract was entered into without the knowledge of the Bureau of Public Works;

"7. That the waterworks system of Majayjay and Magdalena have the same source of water which is the 'Sinabak' spring, and both use the same main pipe;

"8. That similar to the waterworks system of the municipality of Majayjay, the waterworks system of the municipality of Magdalena was also constructed partly with municipal funds and the rest with insular aid taken from the ordinary public works funds provided for in the general public works bills, in the same proportion of one-third, more or less, of the total cost as municipal funds, and the other two-thirds as insular aid, that is, P22,500 as municipal funds and P42,400 as insular aid;

"9. That the Governor-General issued Executive Order No. 6 on February 4, 1925, which Executive Order was amended by Executive Order No. 7 issued March 7, 1926. Both Executive Orders are made part hereof as Exhibits C and D;

"10. That on January 14, 1925, the Chief of the Executive Bureau, the Director of Public Works, the Secretary of the Interior and the Secretary of Commerce and Communications, issued a joint circular, a copy of which is made a part hereof as Exhibit E, wherein it is ordered that all municipal and provincial waterworks systems in the Philippine Islands shall be administered:

"(a) By the municipal council when the system furnishes water to one municipality alone;

"(b) By the provincial board, when the system furnishes water to two or more municipalities or is to be extended to supply two or more municipalities of a province;

"11. That the Chief of the Executive Bureau, the Director of Public Works and the provincial board of Laguna transferred the administration of the Majayjay waterworks system from the municipal council of Majayjay to the provincial board of Laguna, effective January 1, 1926, and the said provincial board of Laguna proceeded to approve and promulgate a tariff of charges as well as regulations which should govern the administration of the system, as shown by Resolution No. 2187 of the provincial board, a copy of which is made a part hereof and marked Exhibit F;

"12. That the provincial board of Laguna, thru the provincial treasurer, applied to the Public Service Commission for the approval of its tariff of charges and waterworks regulations, as shown by order of the Public Service Commissioner, Hon. Mariano Cui, a copy of which is made a part hereof as Exhibit G;

"13. That the municipality of Majayjay has questioned and protested against such actions of the defendants in this case as shown by Resolutions Nos. 118 series of 1925, and 42 series of 1926, approved by the municipal council of Majayjay, and by a memorandum submitted to the Executive Bureau by Mr. Antonio de las Alas, as attorney for the municipality of Majayjay, copies of which are made part hereof and marked Exhibits H, I and J;

"14. That the municipality of Majayjay has already exhausted all administrative remedies to win back the control and administration of its waterworks system."

Nothing of interest or importance can be added to the facts mentioned above except that the municipality of Magdalena has not joined the appellee, the municipality of Majayjay. The appellants assign the following alleged

errors in the decision appealed from:

"I. The court a quo erred in declaring the 'General regulations governing the administration, operation and maintenance of municipal and provincial waterworks' illegal, on the ground that they deprive the municipality of Majayjay of the control and administration of its waterworks system.

"II. The court a quo, therefore, erred in declaring the preliminary injunction issued in this case as final.

"III. The court a quo, likewise, erred in denying the motion for a new trial filed by the herein defendant-appellants."

The solution of the case depends entirely on the meaning of section 2317 of the Revised Administrative Code, upon the provisions of which the appellee herein bases all its rights to administer and regulate the tariff to be paid by the consumers of the "Guevara Waterworks System." The aforementioned provision reads as follows:

"Sec. 2317. Municipal waterworks.—A municipal council shall have authority to acquire, construct, and maintain waterworks for the purpose of supplying the inhabitants of the municipality with water; to regulate the supply and use of water therefrom; and to fix and collect rents for water thus supplied."

The terms of the section cited above are so clear that there is no need of "lengthy arguments to demonstrate that it refers to waterworks systems constructed by a municipality for the exclusive supply of its inhabitants. The combined waterworks system which is the subject matter of the present litigation is not within the scope of this legal provision because, properly speaking, according to admitted facts, this system does not exclusively belong to the municipality of Majayjay, for the reason that both of said waterworks systems have the same source, which is the "sinabak" spring, and are connected by a single main pipe.

In the absence of an express provision to that effect, we do not see any good reason why the regulation in question, which provides for the administration, operation and maintenance of said combined waterworks system, should be null and void and illegal, specially in view of the fact that the aforementioned regulation has been approved and promulgated by the competent authorities of the Executive Branch of the Government and in conformity with the provisions of Executive Orders Nos. 6 and 7, series of 1925 and 1926.

On the other hand, reasons of good government demand that said combined waterworks system should be administered by the provincial board and the tariff regulated by the same entity because, in this way, conflicts, which would necessarily arise between the municipal entities in attempting to defend the rights of their respective inhabitants, are avoided. Undoubtedly, this was the idea which guided the authorities of the Insular Government in promulgating the regulation which places waterworks systems of this kind in the hands of the provincial board. Neither is it strange, that the Central Government should intervene in said activity inasmuch as two thirds of the total cost of both waterworks were constructed with funds from the Insular Government.

The municipality of Majayjay has no reason to evade the consequences of the combination of its system with that of the municipality of Magdalena, for, according to the contract, Exhibit B, entered into by said municipalities, the former voluntarily permitted the municipality of Magdalena to connect its water system with the main pipe so that the use and enjoyment of the combined water systems would be common to both municipalities. To permit one of them to administer the combined water system would expose the other to serious difficulties which, in the long run, would result in frictions and conflicts that the higher authorities alone would be in a position to solve, aside from the possibility that unequal, disproportionate and unjust charges might be assessed in the said localities. The regulation mentioned above has evidently been issued to obviate all of these difficulties.

The judgment appealed from is hereby reversed; the aforementioned regulation is declared valid, and the preliminary injunction heretofore issued is set aside, with costs of both instances against the appellee. So ordered.

Villamor, Villa-Real, Hull, and Vickers, JJ., concur.

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