

**THE PHILIPPINE COOPERATIVE LIVESTOCK ASSOCIATION,
PETITIONER AND APPELLEE, VS. TOMAS EARNSHAW, MAYOR FOR
THE CITY OF MANILA, AND VICTOR ALFONSO, CITY TREASURER,
RESPONDENTS AND ...**

G.R. No. 38256. December 16, 1933

Ponente: HULL, J.

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HULL, J.:

Above entitled cases were heard jointly by agreement of the parties.

The Insular Government for many years has owned and maintained two slaughterhouses, one in Pandacan and the other at Sisiman. Formerly they were used both as quarantine stations and slaughterhouse of cattle imported into this country. The last permit to import cattle for the purpose of slaughter expired in May, 1930. No future permit was contemplated as it was thought that the local cattle industry has prospered to such an extent as to be able to supply local demand.

On April 1, 1930, the Director of Animal Industry, with the approval of the Secretary of Agriculture and Natural Resources, issued an administrative order making the slaughterhouse at Pandacan a public slaughterhouse.

The City of Manila owns a slaughterhouse from which it derives considerable revenue. The rates the Insular Government charges for slaughtering at Pandacan are less than the City of Manila charges in its Manila plant, and the Philippine Cooperative Livestock Association, whose organization and business is thoroughly indicated by its title, desires to utilize the Insular plant at Pandacan for slaughtering the cattle of its members for the sale of meat in the Manila markets.

The City of Manila by an ordinance approved March 5, 1932, amended section 995 of the Revised Ordinances so as to prohibit in effect the use of the Pandacan Slaughterhouse for privately owned cattle, and the city officials have arbitrarily refused to grant to the Philippine Cooperative Livestock Association or its members licenses under sections 653 and 654 of the Revised Ordinances.

The city and insular officials not being able to reconcile their differences, both parties appeared in the Court of First Instance of Manila praying for injunction against the adverse side.

The basic questions involved in these cases may be stated as follows:

- Can the officers of the City of Manila forbid and stop the Philippine Cooperative Livestock Association, or any of its members, from selling fresh meat or refrigerated beef in duly licensed stores within the city limits, including public markets, on the mere ground that the meat was obtained from private cattle slaughtered at the Insular Slaughterhouse at Pandacan, Manila?
- Can the City of Manila enjoin the Insular Government from slaughtering or causing to be slaughtered in the Pandacan Slaughterhouse, or any other slaughterhouse established, maintained, and operated by the Bureau of

Animal Industry, privately owned cattle?

The trial court answered both questions in the negative, and against this ruling the City of Manila has filed the present appeal.

The decision of the trial court is a clear and correct statement of the facts and law applicable to this case, so we will not go into the case in detail, but will briefly discuss a couple of the more important questions raised by this appeal.

The questions are determined by the reading of Act No. 2758, as amended by Act No. 3632, the material portions being section 1 and section 3, which read:

" 'SECTION 1. For the purpose of promoting the breeding and propagation of large cattle and other domestic animals in the Islands and of furnishing the same to the public on economical terms for improved breeding, agricultural work or for consumption, the Secretary of Agriculture and Natural Resources, through the Bureau of Agriculture (now Bureau of Animal Industry), is hereby authorized to establish equip, operate and maintain breeding stations, slaughterhouses and stock herds and farms for the same in such places as may be deemed appropriate therefor and beneficial to the industry. Subject to the general executive supervision and control of the Secretary of Agriculture and Natural Resources, the Director of Agriculture (Animal Industry) shall have the immediate direction and administration of the stock farms, slaughterhouses and breeding stations herein authorized and shall, with the prior approval of said Secretary, make and prescribe such rules and regulations as may be considered convenient or necessary to carry out the provisions of this Act.' "

" 'SEC. 3. The Director of Agriculture (Animal Industry) may order the slaughter or sale for agricultural, propagation, or breeding purposes, or for consumption, or the renting or loaning for breeding purposes, of the animals purchased under the last preceding section and of those belonging to the herds and breeding stations the establishment whereof is authorized by this Act which may not be necessary for the maintenance and development of the same, subject to existing regulations and to such as may hereafter be promulgated by the said Director with the approval of the Secretary of Agriculture and Natural Resources; and all the income therefrom shall constitute a special reimbursable fund to be denominated "stock farm, slaughterhouse and breeding station fund," which may be expended by the Director of Agriculture (Animal Industry), with the approval of the Secretary of Agriculture and Natural Resources, for the same purposes, and in the same manner as the original appropriation, until the Legislature shall otherwise provide.' "

It is contended by the city that section 3 is words of limitation on section 1. The trial court held that section 1 was unlimited so far as the present questions are concerned, and section 3, instead of being words of limitation, is a grant of additional authority.

Executive officers have the right to maintain and care for Government property, but they have no right to dispose of Government property without a legislative mandate. Therefore, the grant of power in section 3 was necessary for the executive officials to sell or otherwise dispose of the Government cattle, and the purpose of section 3 is, therefore, a grant and not a limitation upon the general powers given in section 1.

The contention of the city that it has exclusive control of the sale of meat within the city limits by virtue of its grant in its franchise is without merit. The City of Manila is a subordinate body to the Insular Government, created by the Insular Government, and subject to the control of the Insular Government. When the Insular Government adopts a policy a municipality is without legal authority to nullify and set at naught the action of the superior authority. It might well be pointed out that the ordinances in question relate to public health, and a resort to alleged health ordinances for the purpose of raising revenue is apt to result in arbitrary acts and an illegal assertion of authority that can be checked by the courts.

For the above reasons, the judgment appealed from is affirmed, with the costs against appellants. So ordered.

Avanceña, C. J., Malcolm, Villa-Real, and Imperial, JJ., concur.

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