

THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. LEOCADIO TANQUINTIC, DEFENDANT AND APPELLANT.

G.R. No. 39147. August 04, 1933

Ponente: MALCOLM, J.

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MALCOLM, J.:

The City of Manila was successful in the lower court in securing a judgment against Leocadio Tanquintic, a public utility operator, for the sum of P214, representing the amount of license fees for automobiles operated for compensation or hire on the streets of Manila during the years 1925 to 1929, inclusive. Conceding for the purposes of the appeal that the provisions of the Revised Ordinances of the City of Manila apply to public passenger motor vehicles, the main question is whether or not the operator of such automobiles for compensation or hire on the streets of Manila, after paying the annual license fees and securing the proper licenses pursuant to the provisions of the Motor Vehicle Traffic Act, No. 3045, can also be required to pay to the City of Manila the annual license fees provided for in sections 785 and 786 of the Revised Ordinances.

The case was submitted and decided on an agreed statement of facts. This stipulation discloses that during the period from 1925 up to and including 1929, Leocadio Tanquintic was the holder of a certificate of public convenience granted by the Public Service Commission, which authorized him to operate for compensation or hire automobiles for the transportation of passengers in the City of Manila and certain enumerated provinces. During the years in question, Tanquintic in fact operated automobiles on the streets of Manila and in the various provinces covered by his certificate of public convenience. Tanquintic paid the annual license fees for his automobiles to the Bureau of Public Works and was given proper licenses or certificates of annual registration under the Motor Vehicle Traffic Act. Tanquintic also paid to the Bureau of Internal Revenue the privilege tax of P2 for each automobile as required by the Administrative Code, as well as the percentage tax of 1 per cent on the gross proceeds of operation likewise required by the Administrative Code. However, the public utility owner operated his automobiles in the City of Manila without first obtaining licenses from the City of Manila.

The Manila Charter (sec. 2444 [l], [n], Administrative Code) empowers the municipal board of the City of Manila "to regulate and fix the amount of the license fees for * * * public vehicles * * *" and "to tax motor and other vehicles, notwithstanding the provisions to the contrary contained in section thirteen of Act Numbered Twenty-Five hundred and eighty-seven, * * *." The city authorities have provided for licenses for public vehicles in section 785 of the Revised Ordinances, wherein it is stated that "no person shall own, keep, or operate for compensation or hire, on the streets of the city any public vehicle without first having obtained a license therefor * * *" and have provided for specified fees in section 786, although it has not escaped our attention that these fees are for "each two-wheeled" first class or second class passenger vehicle.

The defense that the provisions of the Revised Ordinances are inapplicable to passenger motor vehicles has not been raised and, therefore, cannot be discussed. Conceding for present purposes that the slight reference to licenses for passenger motor vehicles made in section 1200 of the Revised Ordinances makes applicable thereto the provisions of sections 785 and 786 of the Revised Ordinances, the question recurs as to whether or not the

City of Manila can provide for licenses for passenger motor vehicles.

Act No. 3045 is the Motor Vehicle Traffic Act enacted by the Philippine Legislature. The portion of the Act to which particular attention must be directed is section 53 thereof. Among other things, the section provides that "The certificate of registration issued under the provisions of this Act for any motor vehicle shall, while the same is effective and has not been suspended or revoked, authorize such motor vehicle to be used and operated on all public highways in any province, city, or municipality of the Philippine Islands. Every license issued under the provisions of this Act to any operator shall entitle the person to whom issued, while the same is effective and not suspended or revoked, to operate the motor vehicles described in such license in any province, city or municipality of the Philippine Islands. No further fees than those fixed in this Act shall be exacted or demanded by any public authority of these Islands for the operation or use of any motor vehicle on any public highway, bridge or ferry, or for the operation of any motor vehicle by the owner thereof." The section also contains a proviso to the effect "That nothing in this Act shall be construed to exempt any motor vehicle from the payment of any lawful and equitable Insular, local or municipal property tax (contribucion in Spanish) imposed thereupon."

As will be noted, the Motor Vehicle Traffic Act provides for the necessary licenses for motor vehicles. These licenses are intended to be sufficient. On the other hand, local authorities are authorized to impose a property tax on motor vehicles. The differences between the license and the property tax are well established. The license represents the permission conceded to do an act, is not supposed to be imposed for revenue, and is in the main for police purposes. A property tax, on the other hand, is a tax in the ordinary sense, assessed according to the value of property.

The thought must be repeated that the City of Manila can provide for a property tax on motor vehicles. The City of Manila can not provide for licenses for motor vehicles operated as public vehicles. The Motor Vehicle Traffic Act was intended to be an all-inclusive Act. It was enacted with the end in view of amending and compiling the laws regulating motor vehicles in the Philippines. The Motor Vehicle Traffic Act comes from a higher authority, any ordinance emanating from a lower authority in contravention thereof can not be enforced. It would appear clear that the Motor Vehicle Traffic Act has fully occupied the field of legislation with reference to the imposition of fees for the operation of motor vehicles for compensation or hire to the exclusion of local authorities, except that the latter may provide for a property tax on motor vehicles.

In order that it may not be taken for granted that we have not considered the point slightly pressed having to do with the Spanish translation of the words "property tax" as "contribucion", we will merely state that little comfort can be derived from any argument predicated on the Spanish translation, for giving to the word "contribucion" its widest signification it could not be logically made to include licenses. Also with the same object in view we make passing reference to the case of Zamboanga Transportation Co. vs. Municipality of Zamboanga ([1921], 42 Phil., 545), relied upon by the appellee, and will here only observe that that case had to do with the provisions of a different insular motor vehicle act and with the provisions of a different municipal ordinance, while a close reading of the decision will disclose that, fundamentally, it is in accord with the result toward which we are tending.

Before concluding, the author of this decision may be permitted to remark that he had the privilege of drafting the Revised Ordinances of the City of Manila of 1908, 1917, and 1927. The successive revisions represented successive efforts to bring the ordinances up-to-date and to harmonize them with the Acts of the Philippine Legislature. In so doing, an opinion was secured from the Director of Public Works on February 11, 1927, that the Manila Ordinance then in force governing the regulations of the motor vehicle traffic in the city is not in conflict with the provisions of the Insular Law, Act No. 3045, and the chapter of the Revised Ordinances having to do with motor vehicles was given up to such regulations. Then in compiling the Manila Charter, after quoting section

53 of the Motor Vehicle Act, the following was appended: "The extent of municipal power is doubtful, but would seem to be limited to the imposition of a property tax on motor vehicles."

The question submitted by the appeal and discussed in this opinion is answered in the negative. As we have been given to understand that many operators of public utilities will be affected, it should be emphasized that the opinion is limited in scope to the City of Manila, should not be taken as relating to license fees heretofore paid without protest, and does not preclude the City of Manila from providing for a property tax on motor vehicles if it so desires.

For the foregoing reasons, the judgment will be reversed, and the complaint dismissed, with the costs of both instances assessed against the plaintiff.

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

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