

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. DELFIN L. LARDIZABAL, DEFENDANT AND APPELLEE.

G.R. No. 42395. March 30, 1935

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal from an order of the Court of First Instance of Sorsogon dismissing a case brought against the appellee for violation of municipal ordinance No. 3, series of 1933, of the municipality of Magallanes, Province of Sorsogon. The ordinance imposed a license tax upon the privilege of taking fish within the waters of said municipality with the aid of a fishing tackle known as "sapiao con luces". The order of dismissal was predicated on the assumption that said ordinance was null and of no effect, because it lacked the approval of the Secretary of Agriculture and Commerce, which, it was claimed, was required by Act No. 4003.

It is well settled that municipal corporations may exercise such powers as are expressly granted to them, and such other powers as are necessarily implied from those expressly granted. And it has been held that municipal councils have the power to pass ordinances and regulations with respect to the exercise and enjoyment of the right to fish within their respective districts, such power being one of those incident to the existence of municipal corporations, (*U. S. vs. Hernandez*, 31 Phil., 342.) With special reference to the case before us, section 70 of Act No. 4003, authorizes municipal councils to impose, under certain conditions, license taxes upon the privilege of taking fish in municipal waters with nets, traps or other fishing tackle; and there is nothing in said section or in any other section of the Act which requires the approval of the Secretary of Agriculture and Commerce for the validity of the ordinances passed in pursuance of such authority. It follows that, as contended by the Solicitor-General, the trial court erred in sustaining the demurrer interposed by the appellee and in dismissing the case.

The order appealed from is, therefore, set aside, and the case remanded to the court below for further proceedings in conformity with this opinion, without special pronouncement as to costs. So ordered.

Avanceña, C.J., Street, Hull, and Vickers, JJ., concur.

Order set aside and case remanded for further proceedings.

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