

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. F. E. GEEENFIELD, DEFENDANT AND APPELLANT.

G. R. No. 43435. July 28, 1936

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The appellant is charged with violation of section 4 of municipal ordinance No. 1, series of 1934, of the municipality of Manapla, Occidental Negros. It is alleged that in January, 1934, the accused, then manager of the North Negros Sugar Co., Inc., established and operated a talking cinematograph without paying the tax corresponding to the first quarter of said year.

It has been proven that the accused, in a building erected for said purpose, established and operated, through payments, a talking cinematograph wherein not only the laborers of said corporation but also the public in general were admitted.

Section 4 of municipal ordinance No. 1, series of 1934, of the municipality of Manapla, compels every operator of a talking cinematograph to pay quarterly in advance a municipal license tax of P300 annually. This tax has been levied by virtue of the authority conferred upon the municipal council by section 1 of Act No. 3422 to impose license taxes upon persons engaged in any occupation or business.

The appellant contends that the cinematograph established by him is not of the nature of a business, the only purpose thereof being to provide the laborers of the corporation, of which he is the manager, with amusement and relaxation and to prevent their having to go to other places in search of amusement. It appears, however, that the entrance fee charged is such that it enables him not only to defray the regular operating expenses but also to cover the value of the machine and the building in which the cinematograph is established. This being so, the enterprise has the character of a business, inasmuch as it is for the purpose of gain. For purposes of the tax, the proceeds obtained after deducting all the expenses necessary for the operation of the business, constitute gain. In this sense, after all the expenses of operating the cinematograph are paid and the value of the machine and the building recovered, these machine and building, in so far as they represent value, would constitute a gain in the operation of the cinematograph.

For the foregoing considerations, the appealed judgment ordering the appellant to pay a fine of P25 and a license fee of P75 for the first quarter of the year 1934, with the corresponding subsidiary imprisonment in case of insolvency, is affirmed, with the costs. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, Recto, and Laurel, JJ., concur.

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