

**THE INSULAR GOVERNMENT, PLAINTIFF AND APPELLEE, VS.
DOROTEO NICO ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 4362. October 19, 1909*

Ponente: JOHNSON, J.

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From the record it appears that on or about the 5th of September, 1905, certain inspectors of the Internal Revenue Department made an inspection of a tobacco factory in the city of Manila which belonged to the defendant Doroteo Nico. The defendant Doroteo Nico was present during the time the inspection took place. As a result of said inspection it appeared that the said defendant had manufactured, solid, or removed tobacco for domestic consumption from his factory at various times between January 1, 1905, and September 5, 1905, without properly marking or branding the packages thereof and without invoicing it and prepaying the taxes due thereon. In thus selling and removing tobacco from his factory without invoicing it and without prepaying the taxes thereon, he violated the provisions of subparagraphs (d), (e), and (g) of section 28, as well as the provisions of sections 36, 101, and 107 of Act No. 1189 of the United States Philippine Commission.

The acts of the defendant in so removing and selling tobacco without properly marking or branding the packages and without prepaying the taxes due thereon, also violated the rules and regulations of the Department of Internal Revenue.

The said inspection showed clearly that, after making all due allowance for losses and waste and computing the lowest tax on the difference between the amount of tobacco purchased by the defendant Doroteo Nico from January 1, 1905, to September 5, 1905, and that accounted for by him, the taxes due and unpaid upon said difference were found by the Collector of Internal Revenue to be P367.20.

Upon the report of the inspector, as above indicated, the Collector of Internal Revenue, in consideration of the provisions of section 33 of Act No. 1189, recommended that the defendant Doroteo Nico be fined administratively for said violation of the law in the sum of P100, and also that said defendant be required to pay the taxes due upon the tobacco so illegally removed from his factory, amounting to P367.20.

This recommendation of the Collector of Internal Revenue was forwarded to the Hon. Henry C. Ide, then Secretary of Finance and Justice, for his approval, in accordance with said section 33. Later, and upon the 9th of January, 1906, the recommendation of the said Collector was duly approved by the Secretary of Finance and Justice. Notice of this recommendation of the Collector of Internal Revenue as approved by the Secretary of Finance and Justice was duly given to the defendant and his bondsmen. The notice given to the defendant and his bondsmen contained a full statement of the facts upon which the said fine was imposed, together with the reasons why the taxes of P367.20 should be paid, and required of the defendant and his bondsmen the payment of the sum of P467.20.

In reply to this notice the defendant wrote to the Collector of Internal Revenue a letter in which he attempted to explain the shortage in his supply of tobacco which the inspector had found on or about the 5th of September,

1905. In this letter the defendant furnished an invoice of tobacco on hand covering the period from January 17, 1905, until January 19, 1906. It will be noted that the defendant includes six or eight months not included within the period covered by the inspector. Whether the defendant had made up the deficiency which the inspector discovered between the 5th of September, 1905, and the 19th of January, 1906, is not a question which can be considered in this present action. The proof clearly shows and the defendant does not deny the fact that there was a shortage in the tobacco which he had purchased and sold prior to the 5th of September, 1905.

Under the provisions of section 54 of Act No. 1189 the defendant was given the right to appeal from the decision of the Collector of Internal Revenue, as approved by the Secretary of Finance and Justice, to the Court of First Instance, within a period of ten days from the time of the notice of the imposition of the fine by the Collector of Internal Revenue, under the provisions of said Act. The defendant did not appeal. Neither did his bondsmen. Had the defendant appealed from the order of the Collector of Internal Revenue to the Court of First Instance within a period of ten days, he might have then, in that action, shown to the Court of First Instance that the inspector in making his inspection had actually made a mistake and that there was no shortage in the tobacco which he had purchased and sold without invoicing and paying the taxes upon the same. Section 33 of said Act provides that after the fines are imposed under said section, if the same are not paid, upon demand, the payment may be enforced by a proper action in the courts. In accordance with the said last-quoted provisions, the Collector of Internal Revenue, upon the 22d of March, commenced an action against the defendant and his bondsmen, for the purpose of collecting the amount of taxes found to be due, together with the fine imposed administratively by the Collector.

After hearing all of the evidence adduced during the trial, the lower court found that the defendant and his bondsmen were liable to pay to the Collector of Internal Revenue the sum of P467.30, and rendered a judgment against them and in favor of the plaintiff for that amount, with costs. From that judgment the defendants appealed to this court and made the following assignments of error.

"I. The court below erred in overruling the defendant's motion to compel the plaintiff to specify in his complaint the facts that constitute a violation of Act No, 1189.

"II. The court below erred in not admitting at the trial any evidence tending to the defense of the defendants, unless for the purpose of showing that the administrative decision was rendered by means of fraud, or with lack of jurisdiction on the part of the administrative authority and in holding the administrative approval in the premises to be final.

"III. The court below erred in sentencing the defendants to pay the Insular Government the sum of P467.20 with the costs, without considering the merits of the case."

With reference to the first assignment of error above noted, the record shows that before the defendants answered the complaint they presented a motion in the lower court, asking that the parties be required to specify more in detail the grounds or facts upon which they relied. This motion the lower court, upon a full consideration, denied, deciding that the facts stated in the complaint fully complied with the provisions of the Code of Procedure in Civil Actions.

Upon an examination of the complaint, we are satisfied that the lower court committed no error in denying the motion. The facts set out in the complaint were sufficiently plain and full to give the defendant a full understanding of the cause of action presented against him.

With reference to the second assignment of error above noted, the lower court decided that, inasmuch as the defendants did not appeal from the order of the Collector of Internal Revenue, as approved by the Secretary of Finance and Justice, that the only question which the court could consider in the present action was whether or not

the Collector of Internal Revenue, in relation with the Secretary of Finance and Justice, had (a) jurisdiction to impose the fine in question and (b) whether any fraud was committed in the imposition of such fine.

Section 33 of Act No. 1189 expressly confers upon the Collector of Internal Revenue, under the method provided for therein, the right to impose fines for a violation of the provisions of said law. Section 54 of said Act gives the parties upon whom the fine is imposed the right to appeal to the courts from such order of the Collector. Section 54, in case the person fined appeals, provides for a hearing. It was the evident intention of the Legislature, by providing for this hearing, to give to the party a right to show by proper evidence that the Collector of Internal Revenue had made a mistake in the imposition of the fine, as well as whatever other reasons he might have showing that the fine should not have been imposed. In other words, in this appeal made by the party fined, the whole question with reference to the facts upon which the fine was imposed might have been presented to the court. The law further provides that if the person fined does not appeal from the order of the Collector of Internal Revenue imposing the fine, that the Collector shall commence an action in the proper court for the purpose of collecting the fine. In this action by the Collector, we are of the opinion, and so hold, that the only questions which the court has a right to investigate are whether or not the Collector had jurisdiction to impose the fine, and whether he had committed any fraud in so doing.

The law expressly gave the Collector of Internal Revenue the right to impose a fine for a violation of the law administratively. It is a universal principle that where power or jurisdiction is delegated to any public officer or tribunal over a subject-matter, and its exercise is confided to his or their discretion, the acts so done are binding and valid as to the subject-matter. The only questions which can arise between an individual claiming a right under the acts done and the public or any person denying its validity, are whether such officer or tribunal had jurisdiction to do the particular act, and whether any fraud was committed in the doing of the act. All other questions are settled by the decision of the officer or tribunal upon whom the duty is imposed. (U. S. vs. Arredondo, 6 Peters, 691, 729; U. S. vs. California and Oregon Land Co., 148 U. S., 31; Pittsburg, Cincinnati, Chicago and St. Louis Railway Company vs. Backus, 154 U. S., 421.)

The lower court committed no error, therefore, in the present action, in confining the trial of the cause to the questions of the jurisdiction of the Collector of Internal Revenue to impose the fine and whether or not any fraud was committed in the imposition of such fine.

During the trial of the cause there was no effort made on the part of the defendant to show either that the Collector of Internal Revenue had no jurisdiction to impose the fine in question, nor that he had committed any fraud in so imposing said fine.

With these conclusions, we deem it unnecessary to discuss the third assignment of error above noted.

For the reasons above stated, the judgment of the lower court is hereby affirmed, with costs.

Arellano, C. J., Torres, Carson, and Moreland, JJ., concur.

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