

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MARIA VIUDA DE SABARRE, PEDRO GUY, AND TOMAS BASISTA, DEFENDANTS AND APPELLANTS.

G.R. No. 45522. June 20, 1938

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The present appeal has been taken by the defendants Maria Vda. de Sabarre, Pedro Guy and Tomas Basista from the judgment of the Court of First Instance of Samar, the dispositive part of which is as follows:

"In view of the foregoing, the court finds the herein accused Maria Vda. de Sabarre, Pedro Guy and Tomas Basista guilty beyond all reasonable doubt of the violation of the municipal ordinance with which they are charged and sentences each of them to pay a fine of five pesos (P5), with the corresponding subsidiary imprisonment in case of insolvency, and one-third of the costs. It is so ordered."

In support of their appeal, the appellants assign the following alleged errors of the court a quo in its decision:

"1. The trial court erred in convicting the accused of the violation charged, said municipal ordinance being (a) unconstitutional and void because the prohibition contained in article 1 of the ordinance in question and under which article the herein accused are prosecuted does not appear in the title of the said ordinance; (b) discriminatory, unreasonable and oppressive.

"2. The trial court erred in convicting the accused Pedro Guy and Tomas Basista, even assuming that the ordinance in question is valid and legal."

As to the first assigned error, this court said in the case of *United States vs. Espiritusanto* (23 Phil., 610, 614):

"With regard to the allegation that the said ordinance is in conflict with the provisions of section 5 of the Act of Congress of July 1, 1902, it must be considered that an ordinance has not the character of and is not a general law, but is merely a regulation of a local nature, and one perfectly valid and effective, provided it is in harmony with the general laws in force in the Islands. Therefore, it is not indispensable that its subject should appear in the title, for the provisions of the said Act of Congress refer to the general laws that govern in a State and to those enacted in these Islands which, indeed, must not embrace more than one subject and that subject must be expressed in the title. This constitutional provision has no application to municipal ordinances, as these do not partake of the nature of laws, but are mere rules provided for the fulfillment of the laws. This principle is laid down in the *Encyclopedia of Law and Procedure*. (Vol. 28, p. 378, and vol. 36, p. 1021.)"

See also *Posadas vs. Warner, Barnes & Co.*, (279 U. S., 340; 73 Law. ed., 729; 49 Sup. Ct. Rep., 333); *People vs. Buenviaje* (47 Phil., 536); *Vidal de Rocas vs. Posadas* (58 Phil., 108).

The Philippine Constitution, in force at the time of the enactment of the ordinance under discussion which was approved on March 16, 1936, contains in Article VI, section 12, paragraph 1, substantially the same provision found in section 5 of the Act of Congress of July 1, 1902, to the effect that "No bill which may be enacted into

law shall embrace more than one subject which shall be expressed in the title of the bill", for which reason the interpretation given to said section of the Act of Congress is applicable to the provision of the Philippine Constitution on the matter.

The second question raised is whether article 1 of Ordinance No. 2, series of 1936, enacted by the municipal council of Catarman, Samar, is discriminatory, unreasonable and oppressive. It is discriminatory, according to the appellants, because its provisions apply exclusively to the defendant Maria Vda. de Sabarre as may be seen from a reading of article 1, which prohibits butchers and any other person from selling meat in any place except the public market; and from that of article 2, which prohibits fishermen or any other person from selling fresh fish and other commodities in the public streets of the poblacion, thereby permitting their sale in other places. It is unreasonable, the appellants maintain, because the public market of Catarman is located in an unsanitary place, in the outskirt of the town and amidst muddy, dirty, and obnoxious surroundings to which nobody goes to sell foodstuffs. The municipality fails to keep it in proper condition for lack of funds. Its location is not easily accessible to the health authorities for their inspection. The appellants allege that it is oppressive because the prohibition to sell meat in any place other than the public market compels the meat vendors to offer their goods for sale in one determined place without taking into account the peculiar conditions prevailing in the small town of Catarman, the insanitary condition of its market, and, above all, the absence of vendors and buyers therein, thus forcing said meat vendors to move their business to another place where there are no people, no other vendors, merchants or customers.

Although the ordinance in question makes a distinction by prohibiting in its article 1 butchers and meat vendors from selling meat outside of the public market and in article 2 the fishermen and fish vendors from selling fish in the public streets of the poblacion, said distinction is not unreasonable because in so far as the public health is concerned there is a great difference between meat and fish in their susceptibility to decay, especially where no ice is used to preserve them.

In the case of *People vs. Montil* (53 Phil., 580), this court laid down the following doctrine:

"1. MUNICIPAL CORPORATION MAY PROHIBIT.—As a general rule, a municipal corporation may prohibit by ordinance the sale of marketable articles within certain limits or during certain hours outside of an established market.

"2. WHAT MAY BE DONE UNDER A GENERAL POWER.— Under a general power to regulate and control markets, restrictive regulations as to selling outside the market limits may be made under a general power to establish and regulate markets, and where adequate market facilities are furnished, such regulations are not unreasonable or in restraint of trade, although the rule is otherwise where market facilities are not furnished."

The ordinance in question, therefore, is not unconstitutional inasmuch as the classification is based on a substantial distinction, which constitutes a real difference; is germane to the purposes of the ordinance; is not confined to existing conditions only; and applies equally to all fishermen and fish vendors and to all butchers and meat vendors (*People vs. Chan*, 38 Off. Gaz., 1539; 12 Corpus Juris, 1128, sec. 855.)

The fact that the public market is dirty and unsanitary and is located in a muddy and filthy place to which no people go to make purchases, does not render the ordinance oppressive and unreasonable. It being a duty of the municipality to maintain its public market in sanitary condition and the municipal council being made up of persons chosen by the people to administer their interests and safeguard the health of the inhabitants, the latter have a remedy, if their officials are neglectful in the discharge of their duties, by complaining to the higher authorities.

As to the second error alleged to have been committed by the lower court in convicting the defendants Pedro Guy

and Tomas Basista, the evidence of record shows, and the court has so found, that said defendants not only slaughtered the animals belonging to their co-defendant Maria Vda. de Sabarre, but also helped her in selling the meat of said animals, thereby violating, together with their codefendant, article 1 of the municipal ordinance in question.

In view of the foregoing, and finding no error in the appealed judgment, the same is affirmed in its entirety, with costs against the appellants. So ordered.

Avanceña, C. J., Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

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