

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CAYAT, DEFENDANT AND APPELLANT.

G.R. No. 45987. May 05, 1939

Ponente: MORAN, J.

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MORAN, J.:

Prosecuted for violation of Act No. 1639 (secs. 2 and 3), the accused, Cayat, a native of Baguio, Benguet, Mountain Province, was sentenced by the justice of the peace court of Baguio to pay a fine of five pesos (P5) or suffer subsidiary imprisonment in case of insolvency. On appeal to the Court of First Instance, the following information was filed against him:

"That on or about the 25th day of January, 1937, in the City of Baguio, Commonwealth of the Philippines, and within the jurisdiction of this court, the above-named accused, Cayat, being a member of the non-Christian tribes, did then and there willfully, unlawfully, and illegally receive, acquire, and have in his possession and under his control or custody, one bottle of A-I-1 gin, an intoxicating liquor, other than the so-called native wines and liquors which the members of such tribes have been accustomed themselves to make prior to the passage of Act No. 1639."

Accused interposed a demurrer which was overruled. At the trial, he admitted all the facts alleged in the information, but pleaded not guilty to the charge for the reasons adduced in his demurrer and submitted the case on the pleadings. The trial court found him guilty of the crime charged and sentenced him to pay a fine of fifty pesos (P50) or suffer subsidiary imprisonment in ease of insolvency. The case is now before this court on appeal. Sections 2 and 3 of Act No. 1639 read:

"SEC. 2. It shall be unlawful for any native of the Philippine Islands who is a member of a non-Christian tribe within the meaning of Act Numbered Thirteen hundred and ninety-seven, to buy, receive, have in his possession, or drink any ardent spirits, ale, beer, wine, or intoxicating liquors of any kind, other than the so-called natives wines and liquors which the members of such tribes have been accustomed themselves to make prior to the passage of this Act, except as provided in section one hereof; and it shall be the duty of any police officer or other duly authorized agent of the Insular or any provincial, municipal or township government to seize and forthwith destroy any such liquors found unlawfully in the possession of any member of a non-Christian tribe.

"SEC. 3. Any person violating the provisions of section one or section two of this Act shall, upon conviction thereof, be punishable for each offense by a fine of not exceeding two hundred pesos or by imprisonment for a term not exceeding six months, in the discretion of the court."

The accused challenges the constitutionality of the Act on the following grounds:

(1)

That it is discriminatory and denies the equal protection of the laws;

(2)

That it is violative of the due process clause of the Constitution; and

(3)

That it is an improper exercise of the police power of the state.

Counsel for the appellant holds out his brief as the "brief for the non-Christian tribes." It is said that as these less civilized elements of the Filipino population are "jealous of their rights in a democracy," any attempt to treat them with discrimination or "mark them as inferior or less capable race and less entitled" will meet with their instant challenge. As the constitutionality of the Act here involved is questioned for purposes thus mentioned, it becomes imperative to examine and resolve the issues raised in the light of the policy of the government towards the non-Christian tribes adopted and consistently followed from the Spanish times to the present, more often with sacrifice and tribulation but always with conscience and humanity.

As early as 1551, the Spanish Government had assumed an unvarying solicitous attitude towards these inhabitants, and in the different laws of the Indies, their concentration in so-called "reducciones" (communities) had been persistently attempted with the end in view of according them the "spiritual and temporal benefits" of civilized life. Throughout the Spanish regime, it had been regarded by the Spanish Government as a sacred "duty to conscience and humanity" to civilize these less fortunate people living "in the obscurity of ignorance" and to accord them the "moral and material advantages" of community life and the "protection and vigilance afforded them by the same laws." (Decree of the Governor-General of the Philippines, Jan. 14, 1887.) This policy had not been deflected from during the American period. President McKinley in his instructions to the Philippine Commission of April 7, 1900, said:

"In dealing with the uncivilized tribes of the Islands, the Commission should adopt the same course followed by Congress in permitting the tribes of our North American Indians to maintain their tribal organization and government, and under which many of those tribes are now living in peace and contentment, surrounded by civilization to which they are unable or unwilling to conform. Such tribal government should, however, be subjected to wise and firm regulation; and, without undue or petty interference, constant and active effort should be exercised to prevent barbarous practices and introduce civilized customs."

Since then and up to the present, the government has been constantly vexed with the problem of determining "those practicable means of bringing about their advancement in civilization and material prosperity." (See, Act No. 253.) "Placed in an alternative of either letting them alone or guiding them in the path of civilization," the present government "has chosen to adopt the latter measure as one more in accord with humanity and with the national conscience." (Memorandum of Secretary of the Interior, quoted in *Rubi vs. Provincial Board of Mindoro*, 39 Phil., 660, 714.) To this end, their homes and firesides have been brought in contact with civilized communities through a network of highways and communications; the benefits of public education have to them been extended; and more lately, even the right of suffrage. And to complement this policy of attraction and assimilation, the Legislature has passed Act No. 1639 undoubtedly to secure for them the blessings of peace and harmony; to facilitate, and not to mar, their rapid and steady march to civilization and culture. It is, therefore, in this light that the Act must be understood and applied.

It is an established principle of constitutional law that the guaranty of the equal protection of the laws is not violated by a legislation based on reasonable classification. And the classification, to be reasonable, (1) must rest on substantial distinctions; (2) must be germane to the purposes of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class. (*Borgnis vs. Falk Co.*, 133 N. W., 209; *Lindsley vs. Natural Carbonic Gas Co.*, 220 U. S., 61; 55 Law. ed., 369; *Rubi vs. Provincial Board of Mindoro*, 39 Phil., 660; *People and Hongkong & Shanghai Banking Corporation vs. Vera and Cu Unjieng*, 37 Off.

Gaz., 187.)

Act No. 1639 satisfies these requirements. The classification rests on real or substantial, not merely imaginary or whimsical, distinctions. It is not based upon "accident of birth or parentage," as counsel for the appellant asserts, but upon the degree of civilization and culture. "The term 'non-Christian tribes' refers, not to religious belief, but, in a way, to the geographical area, and, more directly, to natives of the Philippine Islands of a low grade of civilization, usually living in tribal relationship apart from settled communities." (*Rubi vs. Provincial Board of Mindoro*, supra.) This distinction is unquestionably reasonable, for the Act was intended to meet the peculiar conditions existing in the non-Christian tribes. The exceptional cases of certain members thereof who at present have reached a position of cultural equality with their Christian brothers, cannot affect the reasonableness of the classification thus established.

That it is germane to the purposes of law cannot be doubted; The prohibition "to buy, receive, have in his possession, or drink any ardent spirits, ale, beer, wine, or intoxicating liquors of any kind, other than the so-called native wines and liquors which the members of such tribes have been accustomed themselves to make prior to the passage of this Act," is unquestionably designed to insure peace and order in and among the non-Christian tribes. It has been the sad experience of the past, as the observations of the lower court disclose, that the free use of highly intoxicating liquors by the non-Christian tribes have often resulted in lawlessness and crimes, thereby hampering the efforts of the government to raise their standard of life and civilization.

The law is not limited in its application to conditions existing at the time of its enactment. It is intended to apply for all times as long as those conditions exist. The Act was not predicated, as counsel for appellant asserts, upon the assumption that the non-Christians are "impermeable to any civilizing influence." On the contrary, the Legislature understood that the civilization of a people is a slow process and that hand in hand with it must go measures of protection and security.

Finally, that the Act applies equally to all members of the class is evident from a perusal thereof. That it may be unfair in its operation against a certain number of non-Christians by reason of their degree of culture, is not an argument against the equality of its application.

Appellant contends that that provision of the law empowering any police officer or other duly authorized agent of the government to seize and forthwith destroy any prohibited liquors found unlawfully in the possession of any member of the non-Christian tribes is violative of the due process of law provided in the Constitution. But this provision is not involved in the case at bar. Besides, to constitute due process of law, notice and hearing are not always necessary. This rule is especially true where much must be left to the discretion of the administrative officials in applying a law to particular cases. (*McGehee*, *Due Process of Law*, p. 371, cited with approval in *Rubi vs. Provincial Board of Mindoro*, supra.) Due process of law means simply: (1) that there shall be a law prescribed in harmony with the general powers of the legislative department of the government; (2) that it shall be reasonable in its operation ; (3) that it shall be enforced according to the regular methods of procedure prescribed; and (4) that it shall be applicable alike to all citizens of the state or to all of a class. (*U. S. vs. Ling Su Fan*, 10 Phil., 104, affirmed on appeal by the United States Supreme Court, 218 U. S., 302: 54 Law. ed., 1049.) Thus, a person's property may be seized by the government in payment of taxes without judicial hearing; or property used in violation of law may be confiscated (*U. S. vs. Surla*, 20 Phil., 163, 167), or when the property constitutes corpus delicti, as in the instant case (*Moreno vs. Ago Chi*, 12 Phil., 439, 442).

Neither is the Act an improper exercise of the police power of the state. It has been said that the police power is the most insistent and least limitable of all the powers of the government. It has been aptly described as a power coextensive with self-protection and constitutes the law of overruling necessity. Any measure intended to promote

the health, peace, morals, education and good order of the people or to increase the industries of the state, develop its resources and add to its wealth and prosperity (*Barbier vs. Connolly*, 113 U. S., 27), is a legitimate exercise of the police power, and unless shown to be whimsical or capricious as to unduly interfere with the rights of an individual, the same must be upheld.

Act No. 1639, as above stated, is designed to promote peace and order in the non-Christian tribes so as to remove all obstacles to their moral and intellectual growth and, eventually, to hasten their equalization and unification with the rest of their Christian brothers. Its ultimate purpose can be no other than to unify the Filipino people with a view to a greater Philippines,

The law, then, does not seek to mark the non-Christian tribes as "an inferior or less capable race." On the contrary, all measures thus far adopted in the promotion of the public policy towards them rest upon a recognition of their inherent right to equality in the enjoyment of those privileges now enjoyed by their Christian brothers. But as there can be no true equality before the law, if there is, in fact, no equality in education, the government has endeavored, by appropriate measures, to raise their culture and civilization and secure for them the benefits of their progress, with the ultimate end in view of placing them with their Christian brothers on the basis of true equality. It is indeed gratifying that the non-Christian tribes "far from retrograding, are definitely asserting themselves in a competitive world," as appellant's attorney impressively avers, and that they are "a virile, up-and-coming people eager to take their place in the world's social scheme." As a matter of fact, there are now lawyers, doctors and other professionals educated in the best institutions here and in America. Their active participation in the multifarious welfare activities of community life or in the delicate duties of government is certainly a source of pride and gratification to people of the Philippines. But whether conditions have so changed as to warrant a partial or complete abrogation of the law, is a matter which rests exclusively within the prerogative of the National Assembly to determine. In the constitutional scheme of our government, this court can go no farther than to inquire whether the Legislature had the power to enact the law. If the power exists, and we hold it does exist, the wisdom of the policy adopted, and the adequacy under existing conditions of the measures enacted to forward it, are matters which this court has no authority to pass upon. And, if in the application of the law, the educated non-Christians shall incidentally suffer, the justification still exists in the all-comprehending principle of *salus populi suprema est lex*. When the public safety or the public morals require the discontinuance of a certain practice by a certain class of persons, the hand of the Legislature cannot be stayed from providing for its discontinuance by any incidental inconvenience which some members of the class may suffer. The private interests of such members must yield to the paramount interests of the nation (*Cf. Boston Beer Co. vs. Mass.*, 97 U. S., 25; 24 Law. ed., 939).

Judgment is affirmed, with costs against appellant.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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