

THE COMMONWEALTH OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PASAY TRANSPORTATION CO. INC., DEFENDANT AND APPELLANT.

G.R. No. 46592. June 27, 1940

Ponente: MORAN, J.

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MORAN, J.:

An action instituted by the Government of the Commonwealth of the Philippines against the Pasay Transportation Company for the recovery of registration fees on motor trucks operated by the latter for the years 1935, 1936, and 1937, together with the corresponding penalties for delinquency.

The basic facts disclosed by the stipulation of the parties are:

- (1) That from January 1 to February 22, 1935, defendant company operated on the public highways nine motor trucks, and, on February 23 of the same year, placed them out of service;
- (2) That from January 1 to February 25, 1936, it again operated on the public highways 6 motor trucks and, on February 26 of the same year, also placed them out of service; and,
- (3) That from January 1 to February 24, 1937, it operated two motor trucks and, on February 25 of the same year, likewise placed them out of service.

All these motor trucks were registered in the year prior to, but not for the corresponding years they were operated. The government assessed as registration fees due thereon the sum of P4,575 which included the 50 per cent penalty for delinquency. Of this amount defendant was credited with the sum of P30 collected from a third party who purchased one of said trucks, leaving thus a balance of P4.545.

Upon these facts, judgment was rendered for the plaintiff from which defendant company appealed.

Under the law, "no motor vehicle shall be used or operated on or upon any public highway" in the Philippines "unless the same is properly registered for the current year," (sec. 5 (a), Act No. 3992 as amended) and that, except for tourists and those who seek registration for the first time during the second or any subsequent quarter of any calendar year who are authorized to pay their registration fees for a fraction of such year, an annual registration fee is required. (Sec. 8, *Idem.*) Registration is a condition precedent to the lawful operation of any motor vehicle for any current year. The liability of the defendant to registration of its motor trucks and accordingly to the payment of the registration fees, attaches from the moment it operated them, that is, from January 1 of 1935, 1936, and 1937, respectively. The mere fact that the law authorizes actual payment until the last working day of February in no way affects that liability, except as a mere deferment in its fulfillment and to supply a basis for a declaration of delinquency thereunder.

It is, however, insisted that as the motor trucks of the defendant were placed out of service before the last day of registration, they are, under the law (sec. 8 (a) of Act No. 3992 as amended by Commonwealth Act, No. 123),

exempted from registration fees. This argument proceeds from a misconstruction of the law. The exemption provided therein applies to a motor vehicle which has been operated a prior year and "not intended to be operated" or is desired "to be placed out of service" for any current year, and not to one which has already been operated for sometime for such current year and thereafter placed out of service. The proviso of the law which prohibits a refund of any registration fee already paid for any motor vehicle subsequently placed out of service supports this conclusion, contrary to what defendant avers. As the registration fee to which defendant company is liable is annual, and such liability arises at the moment of operation, any subsequent act of the defendant company by way of suspension or discontinuance of its service cannot operate in derogation of its liability.

The liability of the defendant company to the payment of the penalty for delinquency necessarily follows from a finding of its liability to pay the registration fees and its failure to pay the same on the last day required by law therefor. (Sees. 5 (6) and 67 (a), Act No. 3992.)

Judgment is affirmed with costs against appellant.

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

Judgment affirmed.

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