

**THE PROVINCE OF MINDORO, PLAINTIFF AND APPELLEE, W.  
MARCELO E. CRUZ AND CARMEN DESIDERIO, DEFENDANTS AND  
APPELLANTS.**

*G.R. No. 48578. February 19, 1943*

Ponente: MORAN, J.

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**MORAN, J.:**

The stipulation of facts and the evidence adduced at the trial of this case disclose that from July 13, 1937, to August 11, 1938, the motoboats Regelio X and Marianito owned by defendant Maecelo E. Cruz and Carmen Desiderio used the wharf situated on the port of Calapan, Mindoro without payment to the Province of Mindoro of the dockage fees therefor in the aggregate sum of P936. For failure to pay the dockage fees, the Province of Mindoro instituted an action for their recovery, and judgment was rendered by the trial court condemning defendants to pay the amount in question. This judgment is now the subject of review in this appeal.

Defendants contend that, under the Executive Order issued by the Chief Executive on December 3, 1936, which became effective on January 1, 1937, the port of Calapan, Mindoro, was declared a national port by virtue of which its maintenance, administration or operation became vested in the National Government through the Insular Collector of Customs, and that, accordingly, the Province of Mindoro has become deprived of its power, if it had any before, to administer the same and collect wharfage fees for its use. We cannot accept this view. The wharf was constructed by authority of the Public Service Commission and its cost was borne partly by the National Government and partly by the Province of Mindoro. Because of its part ownership, the Province of Mindoro has charged and collected fees for the use of the wharf apparently without any objection by the National Government. The subsequent classification of the port of Calapan as a national port did not, and was not intended to, divest the Province of Mindoro of its part ownership of the wharf and, accordingly, of its right to collect wharfage fees for its use as it had therefore done. Not until its complete ownership has become vested in the National Government by the mode of transfer provided by law, may the Province of Mindoro be divested of this right. Judgment is affirmed, with costs against defendants.

Yulo, C.J., Ozaeta, Paras and Bocobo, JJ., concur.

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