

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RUPERTO ROQUE, DEFENDANT AND APPELLANT.***G.R. No. 48838. February 19, 1943*

Ponente: BOCOBO, J.

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Appellant questions the validity of an order of the Secretary of Labor requiring him to make repairs on an engine so as to eliminate excessive vibrations, and to stop the operation of the engine until the defect is corrected.

It appears that appellant owned an ice plant and rice mill at Malolos, Bulacan. The engine in question, which was in operation in the establishment, caused vibrations which were felt within a radius of 200 meters. Upon complaint of persons living in the neighborhood, the Department of Labor sent its experts to investigate the condition of the engine. After such investigation, the engineers of the Department of Labor reported that "the engine is vibrating very badly due to improper design of foundation, transmitting its vibration to buildings within a radius of about 200 meters, shaking and undermining the foundations of the same, presenting not only an unnecessary nuisance and disturbance to the people in the neighborhood but serious hazards endangering the lives of the laborers working therein." The report recommended, among other things, that the foundation of the engine be improved, and that the operation of the engine be stopped until the vibrations were corrected. Consequently the Secretary of Labor on October 20, 1937, addressed a letter to appellant, enjoining him to comply with the engineers' recommendations with the least possible delay. Appellant renliwl nn Oetohar 23, 1937 through his attorney, Jose M. Casal, saying that the cause of the vibrations was the configuration of the soil, which was beyond his control. Thereupon, the Secretary of Labor on December 6, 1937, reiterated his order, invoking sections and 6 of Commonwealth Act No. 104, but appellant continued the operation of the engine, without doing anything to stop the vibrations. Appellant was, therefore, charged with violation of an order of the Secretary of Labor, and was sentenced by the Court of First Instance of Bulacan to pay a fine of P300 with subsidiary imprisonment in case of insolvency, and costs.

Appellant maintains that the order of the Secretary of Labor was void because it was not based on any pre-existing rules of general application establishing standards for machinery, promulgated by the Department of Labor. The theory of this appeal is that the Secretary of Labor should have laid down general regulations on the subject of engines and machinery before he could issue the order in question.

Even a cursory reading of sections 1 and 6 of Commonwealth Act No. 104 clearly shows appellant's theory to be mistaken. Said legal provisions are couched in these terms:

"SECTION 1. The Secretary of Labor is hereby authorized to promulgate and enforce rules, regulations and orders to establish safety standards and otherwise to promote and increase the safety of laborers and employees in mines, quarries or metallurgical operations and other industrial enterprises, against danger of injury, or disease: Provided, That whenever, in the opinion of the Secretary of Labor, the enforcement of any rule, regulation, or order may prove detrimental to the normal operation of the enterprises enumerated herein, he may make exemptions which he shall revoke when conditions warrant such revocation."

* * * * *

"Section 6. A violation of any of the provisions of this Act or any of the orders rules, and regulations promulgated pursuant thereto, shall subject the manager, superintendent or other officer directly concerned to a fine of not less than fifty pesos nor more than five hundred pesos, or to imprisonment for not less than ten days nor more than six months, or both, in the discretion of the court." (*Italics supplied.*)

It will be seen that the Secretary of Labor may issue any order not only to establish safety standards but also to promote and increase the safety of laborers. Such order may be issued to any individual without the need of any general regulation, because the Secretary of Labor is given discretionary powers to give any order which may be conducive to the safety of laborers. Such is the significance of the words, "and otherwise to promote and increase the safety of laborers and employees." We are not disposed to countenance any interpretation of the law which would so circumscribe the powers of the Department of Labor as to defeat the plain intendment of the law, which is the safety of laborers. Moreover, appellant can not complain of any arbitrariness, inasmuch as it was his inescapable duty as a law-abiding citizen to suspend the operation of the engine, once competent authority had ordered him to do so, and if he felt aggrieved, he could have asked the Department of Labor for a reinvestigation or for an extension of time for compliance. He might also have resorted to the courts, if he doubted the legality of the order of the Secretary of Labor. Instead of taking any of these steps, he openly disobeyed said order. The appellant's dereliction disregards those fundamental notions which a thoughtful employer and neighbor would cherish.

Nearly four years after the commission of the offense by appellant, that is, on July 17, 1942, he sold the machinery of the ice plant to Jacinto Geronimo, Jr., who removed the same to a place far from the center of population of Malolos. For this reason, and contending that this is now a moot case, appellant on September 29, 1942, moved for the dismissal of the same. But appellant's act of disobedience has been committed, and worse still, his violation of the law has continued for almost four years.

Therefore, the judgment appealed from is hereby affirmed, with costs against appellant. So ordered.

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

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