

JASU BHOPATRAI, PETITIONER, VS. THE HON. FRANCISCO ARELLANO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF SPECIAL CRIMINAL JURISDICTION OF OCCIDENTAL NEGROS, RESPONDENT.

G. R. No. 49304. November 17, 1944

Ponente: OZAETA, J.

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OZAETA, J.:

The petitioner is the manager of B. I. Sehwan & Co., a mercantile firm doing business in Bacolod, Occidental Negros. On and before August 18, 1944, said company had 1,579 pairs of men's shoes in stock, of which 928 pairs were leather or army shoes and 651 pairs were rubber or tennis shoes, having purchased the same between June 5, 1943, and June 5, 1944, at prices ranging from P23.70 to P92 a pair of the leather shoes and from P4.50 to P15 a pair of the rubber shoes. In June 1944 the Constabulary of Occidental Negros needed 600 pairs of shoes and tried to purchase them from the petitioner's store but were told by the petitioner that he had very few shoes left, there being then only six or seven pairs in the showcases of the store. On August 8 of the same year the constabulary inspector, having received information that petitioner's establishment still had a great quantity of shoes, again spoke to the petitioner requesting his cooperation, but the petitioner again told him that he had no more shoes than those displayed in his stores, there being only 30 pairs in each of the two stores on Gonzaga street. But after searching the bodega behind one of the stores the Constabulary found more shoes hidden in sacks and boxes. The Constabulary took 582 pairs, which were the only shoes they found then, with the understanding that they were to be paid for later at the price to be agreed by the parties. On August 17 the petitioner presented to the office of the inspector a bill for P104,900, at the rate of P100 a pair of the tennis shoes and P400 a pair of the army shoes.

About that date the Constabulary again received confidential information that the petitioner was still keeping a great quantity of shoes; and to verify it they sent a private person to buy a pair, for which the price of P600 was demanded at the store of the petitioner. Thereupon the Constabulary procured a search warrant and searched the bodega of the firm on Luzuriaga street where, notwithstanding the petitioner's repeated assertions that he had no more shoes, they found 997 pairs contained in eight tampipis and three sacks. These, together with the 582 pairs previously taken, brought the number of shoes seized to 1,579 pairs.

Formerly, in October 1943, the Constabulary had-bought 210 pairs of leather shoes from the petitioner's establishment and paid P29.50 a pair. When on August 8, 1944, the constabulary inspector reproached the petitioner, for having repeatedly denied the existence of his stock of shoes, the petitioner replied: "You know that we are merchants and, to tell you the truth, this is the only line of our business where we want to realize a good profit. You will recall that when we sold shoes to you last October we hardly made a profit; and that is the reason why we do not like to give you any more shoes."

Upon the foregoing facts the respondent judge found the petitioner guilty of hoarding, in violation of Act No. 65,

in connection with Ordinance No. 7, as alleged in the information, and sentenced him to suffer two years of imprisonment and to pay a fine of P50,000, declaring confiscated in favor of the Government the shoes in question with the exception of 90 pairs taken from the stores of the company.

The accused petitions us to annul that sentence on the ground that the respondent judge of the court of special criminal jurisdiction of Occidental Negros had no jurisdiction to try and decide the case. He contends that the word "commodities" used in, Act No. 65 as well as in Executive Order No. 157 comprehends only prime commodities, and that shoes are not listed as prime commodities in Order No. 21 promulgated by the Department of Agriculture and Commerce pursuant to Executive Order No. 210 of the Chairman of the former Executive Commission.

The Solicitor General in his answer agrees with the petitioner and joins the latter in his prayer for the annulment of the sentence.

At first blush some members of the Court, including the writer of this opinion, were of the impression that the petitioner's contention was correct. But after deliberation and a careful examination of the legal provisions herein involved, we find such impression to be erroneous.

The only question before us is whether the respondent judge had jurisdiction to try and decide the case. That question in turn hinges on whether the commodities the hoarding¹ of which is penalized in Act No. 65, in relation to Executive Order No. 157, are commodities in general or only what has been specifically designated as prime commodities.

Ordinance No. 7, creating the courts of special criminal jurisdiction, provides that said courts shall have exclusive jurisdiction to try and determine crimes and offenses penalized by Act No. 65. This Act imposes heavier penalties for "violations of food control laws, when committed by public officers and employees, and for similar offenses when committed by private individuals or entities." Among the offenses specifically mentioned in section 2 of said Act for which heavier penalties are imposed, is:

"(g) Cornering or hoarding commodities for the purpose of obtaining unjustifiable profit thereby, even if the maximum prices have not been fixed for such commodities. 'Cornering' and 'hoarding' as used herein shall have the same meaning as these terms have under subsection (d), section six of Executive Order Numbered One hundred and fifty-seven, above mentioned."

Section 3 of the same Act also provides that the penalty prescribed by existing laws and ordinances shall be imposed in its maximum period in cases of violation of the laws, ordinances, and orders mentioned in paragraph (b) of section 2 thereof, when committed by private individuals or entities. Among the orders mentioned in said paragraph is Executive Order No. 157, as amended. This executive order is entitled "On Price Control of Commodities," and prohibits in its section 6, among others, the following:

"(d) Cornering or hoarding commodities for the purpose of obtaining unjustifiable profits therefrom, even if maximum prices have not been fixed for such commodities. For the purposes of this Order, 'cornering' shall mean the acquisition of commodities with the intent of creating, or tending to create, or effecting artificial scarcity thereof in the market, in order to alter prices; and 'hoarding' shall mean the keeping or concealing of commodities in amounts or quantities in excess of the ordinary demands of trade or business."

It will be noted from the provisions of Act No. 65 and Executive Order No. 157 above quoted that their scope is not limited or confined to prime commodities. There is nothing in Executive Order No. 157 that would warrant such limitation. Indeed, section 8 of said executive order as amended by Executive Order No. 229, provides among other things as follows: "Any commodities involved in the offense shall be subject to confiscation. * * * In case commodities confiscated under this Order are prime commodities, as defined in accordance with Executive

Order No. 210, they shall be sold to control organizations at reasonable prices." This clearly implies that the commodities regulated by said executive order include both prime and nonprime commodities.

Both the petitioner and the Solicitor General seem to be misled by the title of Act No. 65, which mentions "food control laws," and by Executive Order No. 210, which is entitled "On the Control of the Distribution of Prime Commodities." At first blush, one reading the title "An Act Imposing Heavier Penalties for * * * Violations of Food Control Laws" gets the impression that the laws referred to deal with the control of foodstuffs only. But upon examining the body of the Act, one will readily see that the penal provisions of Act No. 9, Ordinances Nos. 1 and 2 promulgated by the President of the Republic of the Philippines, and Executive Orders Nos. 157 and 210, as amended, of the Chairman of the former Executive Commission, are incorporated therein by sections 2 (b) and 3 of said Act; and said Act, ordinances, and executive orders do not all refer exclusively to foodstuffs. The phrase "food control" used in the title of Act No. 65 is apparently used as a convenient, albeit inadequate, term to indicate a number of statutes intended to alleviate the acute suffering of the people due to the scarcity of foodstuffs and other needed commodities, for the violation of which heavier penalties are imposed. It is not contended here that the inadequacy or inaccuracy of the title-of. an Act vitiates or nullifies its provisions. That question is not before us.

It is true that Executive Order No. 210, the penal provisions of which are also incorporated by reference in Act No. 65, regulates the distribution of prime commodities and authorizes the Commissioner of Agriculture and Commerce to designate the commodities that are considered as prime, and that Order No. 21 of said Department does not include shoes among the prime commodities therein listed. But the petitioner is not charged with a violation of Executive Order No. 210 but with a violation of Executive Order No. 157 as incorporated, in Act No. 65, and the two executive orders are separate and distinct. The former deals with "the control of the distribution of prime commodities," while the latter deals with the "price control of commodities" in general. Hence, the fact that shoes are not prime commodities within the purview of Executive Order No. 210 does not necessarily mean that they are not comprehended within the purview of Executive Order No. 157, the penal provisions of which are incorporated by reference in Act No. 65, under which the petitioner has been prosecuted; and since Ordinance No. 7 expressly confers upon the respondent judge exclusive jurisdiction to try and determine offenses penalized by Act No. 65, the inescapable conclusion is that said judge had jurisdiction to try and decide this case.

Wherefore, the petition must be and is hereby denied, with costs.

Yulo, C. J., Horrilleno, Moran, and Paras, JJ., concur.

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