

ANDRES PUNZALAN, PLAINTIFF AND APPELLEE, VS. SISENANDO FERRIOLS, MUNICIPAL PRESIDENT OF BATANGAS, AND THE PROVINCIAL BOARD OF BATANGAS, DEFENDANTS AND APPELLANTS.

G.R. No. 6016. March 26, 1911

Ponente: CARSON, J.

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CARSON, J.:

Judgment was rendered in the court below against the Province of Batangas for P120, the alleged value of a horse, the property of the plaintiff, which, as appears from the findings of the trial court, was shot in pursuance of the provisions of section 12 (a) of a provincial ordinance dated August 31, 1909. This ordinance is as follows:

"[Excerpt.]

"Extra session of the provincial board, held on August 31, 1909.

"601. Whereas it is known that infectious animal diseases, such as glanders or surra, rinderpest, hemorrhagic septicaemia, and contagious foot-and-mouth diseases, exist in some municipalities of this province; and

"Whereas the provincial board has the power to regulate and to issue orders in the matter of stock diseases, according to section 18 (k) of Act No. 83, as amended by Act No. 138; and

"Whereas, if strict measures are not taken to prevent the propagation of animal diseases, the latter may spread throughout the whole province, to the great detriment of our agriculture:

"Therefore the provincial board of this Province of Batangas, Philippine Islands, in order to suppress and prevent the spread of the said diseases, adopts the following resolution:

"1. In all cases of sickness or death of large cattle, horses, cattle, and carabaos, the owner of the sick or dead animal shall immediately report to the barrio lieutenant the place where the sick or dead animal is. The barrio lieutenant, without loss of time and within twenty-four our hours after the discovery of the case, shall report the same to the municipal president, who, together with the president of the board of health, shall make a careful investigation, and if, thereby, it is found that the animal is attacked with rinderpest or by any of the diseases before mentioned, he shall immediately provide: (a) For the separation and quarantine of the infected animal; (b) For the cremation or burial of the remains of the animal, if it died of any of the diseases included in the previous description; (c) That a report be made to the provincial governor of the result of the investigation held by them.

"2, It shall be the duty of the municipal secretary of each municipality to keep a complete record of all cases of sickness among large domestic animals and of the number of deaths which result from the same. Such record shall show the brands and marks of the animal and the name and residence of its owner, and a transcript thereof shall be sent to the provincial governor at the end of every month. It shall furthermore be the duty of the municipal secretary to furnish a copy of the said record to any official veterinary, should he request it

"3. Within thirty days after the receipt of these regulations the municipal council shall cause, an exact and complete list to be made of all the persons who have large domestic animals within the jurisdiction of the municipality, and furnish it to the municipal secretary. This list must contain the names and addresses of the owners, the number of animals owned by each, and the barrio within which such animals are kept.

"4. All births, sales transfers, and deaths of large domestic animals within the municipality shall immediately be inscribed in this list by the municipal secretary.

"5. The municipal secretary shall furnish a certified copy of this list to any employee of the Bureau of Agriculture within three days after his request for the same has been made.

"6. On any date and at any hour fixed by the municipal president, in accordance with instructions received from the provincial governor or from any official veterinary, the said municipal president may require the owners to send all their domestic animals, or any of such animals as he may designate, to any place within the municipality, determined by the president and approved by the veterinary, for their inspection and inoculation.

"7. If, from the examination of the animals, the veterinary should declare any of them to be affected with a dangerous and contagious disease, the president shall immediately call an extra session of the council, and it shall then be the duty of the said council to establish a public corral for the detention of the sick, animals, to appoint corral guards or attendants, to compel the tying up of all the domestic animals of the same species that are attacked with disease, so as to avoid the unnecessary exposure to the infection of those that are well, to adopt quarantine regulations, and to appropriate from the municipal funds a sufficient sum for the payment of a corps of temporary employees for the enforcement of these regulations, of the costs of the prosecutions had before the justice of the peace court, and of other necessary expenses.

"8. It shall also be the duty of the municipal council to order the quarantine for a few days of all large cattle that may be imported from other provinces or islands, whenever it is reported that they have some infectious disease.

"9. The public corral should be constructed at a place approved by the veterinary and surrounded by a double fence, with a space of at least 15 meters between the two fences.

"10. When the number of deaths of any kind of domestic animal is abnormally great in any municipality or part of the same and the municipal authorities doubt their ability to prevent an increase thereof, the municipal president shall likewise notify the provincial governor of the existing conditions.

"11. In all cases of deaths of carabaos, cattle and horses, and other domestic animals, from a contagious disease, their remains shall be cremated before burial; and Act No. 262, passed on October 11, 1901, shall be strictly complied with.

"12. When a veterinary of the Bureau of Agriculture declares that an animal is infected with a contagious disease, such as surra, etc., and is incurable, he shall notify the municipal president thereof in writing, and it shall be the duty of the latter immediately to order the infected animal killed and its remains shall be disposed of in the manner provided by the preceding paragraph, No. 11, of this resolution : Provided, That, with the authorization of the municipal president, the veterinary may kill such animal.

"13. Every violator of any part of this resolution shall incur a penalty which shall not exceed a fine of P200 or imprisonment for thirty days, at the discretion of the court. Jurisdiction is hereby conferred upon the justices of the peace of this province to try all infractors of these regulations.

"14. It is further resolved that eight official copies of this resolution shall be furnished to each municipal secretary of this province, of which one copy shall be for the municipal president, one for the president of the municipal board of health, one for the justice of the peace, and the other five copies shall be posted in the most public places of the pueblo. Official copies of the same shall also be furnished to the Director of Agriculture

and to the honorable judge of First Instance of Batangas, Seventh Judicial District.

(Signed) "MARTIN MARASIGAN,

"Provincial Governor, Batangas, P. I.

(Attested) "MAXIMO SARMIENTO,

"Provincial Recorder.

"The foregoing is an exact copy of its original.

"MAXIMO SARMIENTO,

"Recorder of the Provincial Board, Batangas, P. I."

Section 13 (k) of Act No. 83, as amended by Act No. 133, by authority of which the provincial board claimed to have put this ordinance in force, is as follows:

"Sec. 13. It shall be the duty of the provincial board:

* * * * *

"(k) To adopt, by resolution, regulations for the suppression of any agricultural pest like locusts or cattle disease, to post the same in five conspicuous places in each pueblo, to provide for enforcement of the same by fixing penalty for their violation not exceeding one hundred dollars fine or thirty days' imprisonment, to confer jurisdiction to try violators of such regulations upon justices of the peace of the province, and to appropriate from the provincial treasury the necessary expenses in organizing the temporary force of employees needed to enforce regulations and in paying costs of prosecutions before justices of the peace."

It is admitted that the animal in question was formally "declared" to be sick with the highly contagious disease known as surra by a veterinary surgeon in the employ of the Bureau of Agriculture and that thereafter it was shot by order of the municipal president, all the proceedings in this regard being had in strict accordance with the provisions of subsection 12 (a) of the above-cited ordinance. The only questions of fact as to which there was any contention at the trial were the curability of the disease with which it was admitted the animal was suffering and its value at the time it was shot.

Three veterinary surgeons, one of them an Army veterinary, testified that they had examined the animal in question and had made microscopic tests of its blood before it was shot; that it was undoubtedly suffering from the highly contagious disease known as surra; that the diseased animal was incurable and that, while it might, perhaps, have lingered along for some weeks or months had it not been shot, it was absolutely worthless and of no value to its owner or any one else. This testimony stands uncontroverted, except only by the testimony of the plaintiff, the owner of the animal, who stated that in his opinion the animal, at the time it was shot, was recovering from the disease with which he admitted it had been suffering, and that before it was taken sick it was worth P120, the amount which the court below allowed in damages.

We think the evidence clearly establishes the contention of the defendants, that at the time the animal was shot it was suffering from the highly contagious disease known as surra, the disease with which it was attacked being incurable in the ordinary acceptation of that term; that is to say, without treatment the animal must have died of the disease, if it were permitted to run its course, and that no treatment known to its owner or to the skilled veterinarians, upon whom he would have been compelled to rely had he sought their aid in an attempt to combat the disease, would have changed the result.

It is quite clear, therefore, that if the provisions of section 12 (a) of the above-cited ordinance are valid, the plaintiff in this action can not recover damages for the slaughter of the animal. Counsel for plaintiff contends that

the ordinance in question is invalid in so far as it authorizes and provides for the destruction of diseased animals:

First. Because it makes no provision for compensation to the owners of such animals, and to that extent, as he alleges, is in conflict with the provisions of sections 5 and 74 of the Philippine Bill of Rights, which provide: "That no law shall be enacted in said Islands which shall deprive any person of life, liberty, or property, without due process of law, or deny to any person therein the equal protection of the laws;" and, that in the exercise of the right of eminent domain, no private property shall be taken "without just compensation paid or tendered therefor;" and,

Second. Because, as counsel insists, the authority to provide by ordinance for the destruction of such animals is not included in the powers contained in the above-cited section 13 (k) of Act No. 83, amended by Act No. 133, upon which the provincial board expressly relied in enacting the ordinance.

A reference to our decision in the case of *U. S. vs. Toribio* (15 Phil. Rep., 85), and the authorities cited therein, would seem to be sufficient to dispose of the first of these contentions. In that case, on both reason and authority, we held that in this jurisdiction the provisions of the Act of Congress of July 1, 1902, were not intended to have the effect, and did not have the effect of denying to the Government of the Philippine Islands the right to exercise the sovereign police power in the promotion of the "general welfare" and the "public interest." The quarantine, isolation, and even the slaughter of cattle suffering from infectious or contagious diseases are universally recognized as typical examples of the proper exercise of this power, in any case where the controlling public necessity for the checking of the ravages of such disease demands such interference with or destruction of the property of individuals, and provided the means adopted are reasonably necessary for the accomplishment of the purpose which it is sought to attain. In the case of *U. S. vs. Toribio* (supra), we discussed at length the controlling public necessity which demands the adaption of the most stringent measures for the preservation of large cattle in these islands and the checking, as far as may be, of the ravages of the highly contagious and infectious diseases to which they are exposed. We do not deem it necessary to repeat the discussion here, nor do we think it necessary to discuss at length the reasonableness of the ordinance under which the animal was shot in the case at bar. The mere reading of the ordinance is sufficient to satisfy the mind of any reasonable man, that so far as it provides for the slaughter of animals suffering from contagious or infectious diseases, it is eminently fair and just, if it be admitted that the slaughter of such animals in the exercise of the sovereign police power of the state can be justified under any circumstances. It carefully guards the owner from the reckless or ill-considered action of the official charged with the duty of stamping out the diseases against which it is directed, and apparently it goes to the utmost limits, consistent with efficiency, in protecting the property rights of the individual and restraining the rigor of an admittedly and inherently harsh measure adopted under the stern pressure of necessity, "the great master of all things."

In answer to the second contention, we think it is sufficient to say that the grant to the provincial boards of power to adopt by resolution, "regulations for the suppression of any agricultural pest like locusts or cattle diseases," which is contained in the above-cited section 13 (k) of Act No. 83, as amended by Act No. 133 of the Philippine Commission, clearly and unquestionably confers upon these boards the same power to adopt such regulations as may be necessary for the suppression of diseases of cattle as was vested in the Commission itself. There are no limitations on the grant of power and none, therefore, can or should be implied upon the power vested in these boards other than those which the Commission itself was bound to respect. The perfect right of the Legislature in the exercise of the sovereign police power and in the promotion of the "general welfare" and the "public interest" to make reasonable laws or regulations for the slaughter of diseased animals, when this is necessary for the effective suppression of disease among cattle, can not be questioned upon acknowledged and general principles, and there can be no doubt therefore of the perfect right of the provincial boards in these Islands to make such

regulations under the authority conferred upon them.

The judgment of the court below must be reversed, and the complaint filed in this action dismissed, without special condemnation of costs in either instance. It is so ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

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