

## THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIXTO LAXA, DEFENDANT AND APPELLANT.

*G.R. Nos. 11457 and 11458. March 31, 1917*

Ponente: ARAULLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-11457/>

---

### ARAULLO, J.:

Two causes were instituted against the defendant Sixto Laxa in the Court of First Instance of Pampanga, recorded respectively under Nos. 1697 and 1698, and were commenced by complaints entered by the fiscal which, respectively, read as follows:

"The undersigned charges Sixto Laxa with a violation of article 169, in connection with section 45, subsection (p), of Act No. 2339, as amended, committed as follows:

"That the said accused Sixto Laxa, on and prior to the 23d day of April, 1915, in the municipality of Sexmoan, Pampanga, P. I., did, willfully, unlawfully and criminally, and without previously having paid for the proper license, engage in the sale of fish—a business subject to the payment of one-third of one per cent on the gross cash value of the sales. An act committed with violation of law.

"The undersigned fiscal charges Sixto Laxa with a violation of section 169 (a) in connection with sections 39 and 40, of Act No. 2339, committed as follows:

"That the said accused, Sixto Laxa, being a fish merchant, did, on and prior to April 23, 1915, in the municipality of Sexmoan, Pampanga, P. I., willfully, unlawfully and criminally, fail to make within the period prescribed by law the return of the receipts or earnings of his business, for the purpose of the payment of one-third of one per cent of his sales, said business being, as it was, subject to said tax. An act committed with violation of law."

The defendant plead not guilty in both said cases, and, these having been tried jointly, he admitted the following facts:

"That, since 1901, he has been the owner of three fisheries in the pueblo of Sexmoan, Pampanga; that, during the season for the catching of the fish raised in these ponds, he sells said fish to the buyers who go in quest thereof to said ponds and does not sell them in the market; that he also sells some of said fish in the market, through means of his children or servants who go there for this purpose; that he never has refused to pay any tax whatever, and that if he has not paid the one here in question, it is because he believes it is not and never has been included by the new Internal Revenue Law, nor by Act No. 1189; that, during all that time, even since the enactment of said Act, he has never been required to pay said tax, except on the present occasion when it is demanded of him in accordance with Act No. 2339; and that, for the same reason above stated, to wit, that he has not believed himself to be included by the provisions of Act No. 1189, he has made no payment either for a license or for taxes."

On November 4, 1915, at the conclusion of the trial, the court rendered judgment in each of said two cases, found the defendant guilty of the respective violations of law charged in the two complaints, and sentenced him, for each

violation, to pay a fine of P10 or, in case of insolvency, to suffer the corresponding subsidiary imprisonment, to pay the required tax and the costs of trial. From these judgments the defendant appealed and alleged that the lower court erred: (1) In not considering the fish, that are products of the land, as agricultural products; (2) in considering as a merchant, dealer, or tradesman the owner of a piece of land used as a fishpond, who sells on the land itself or at such pond the products (fish) of said land or pond; (3) in declaring the defendant not to be comprised within the exemptions contained in sections 40 and 41 of Act No. 2339; (4) in finding the defendant guilty of the violations charged; and (5) in sentencing the defendant to pay a fine of P10, or, in case of insolvency, to suffer subsidiary imprisonment, and also to pay the tax imposed and the costs of trial.

All the appellant's arguments to show that the first alleged error was committed are founded on the facts, as stated in his brief, that this Supreme Court has in various decisions set down the principle that fish ponds are deemed agricultural land; that in the case of *Mercado vs. Collector of Internal Revenue* (32 Phil. Rep., 271) this court decided that mangrove-swamp lands, which are precisely the land on which fishponds are constructed, are lands of an agricultural character, and that the trees or products of such lands should likewise be considered products of agricultural lands. In order to make his arguments convincing, appellant explains in his brief how the fisheries in these Islands are constructed and prepared, or, better said, makes an explanation relative to the lands intended for fishponds, the placing therein of young fish for the purpose of their development and reproduction, and the care and proper feeding of the fish to keep them from dying; and finally, he states that there is no transformation of any kind, for it is little fish known by the name of *bañgus* that are let into the fishponds and from them the fish *bañgus* are taken by their owner and offered for sale.

In the first place an inexact assertion is made in the first assignment of error, in affirming that fish are products of the land. In order that they may be deemed to be such, it would be necessary that between the fish and the land there be a relation such that, by reason and by means thereof, the fish could exist and reproduce themselves, or, what amounts to the same, that the fish be related to the soil of the land used as a fishery or live off of some product of the land itself; and this relation does not exist, for, as the appellant himself says, and also the Attorney-General, the fish raised in the fishponds feed on the moss, verdure or pond-skum that grows in the water. These fish can live, develop and reproduce themselves in the same manner wherever they have such kind of food, which is not found solely and exclusively in fishponds.

Products of the land or the ground are those things that spontaneously sprout and grow in it, or that sprout and grow therein through means of labor. In this case are the grasses, the bushes or shrubs and the trees that spontaneously sprout in the land, or the plants that are planted in the land and are cultivated in it, producing wood, cereals or other kinds of articles for food or for some purpose of commerce or industry.

"The products of an estate are the things that are produced by means of labor, or that are of spontaneous growth, and the products of his own estate are those produced by the owner or cultivator thereof." (*State vs. Kennedy*, S. E., 47.)

As the fish that are raised, developed and reproduced in the fishponds or fisheries cannot be deemed products of the land, much less may they be said to be agricultural products.

In the second place, it is true that among the several decisions cited by the appellant in his brief, in that of *Santiago vs. Insular Government* (12 Phil. Rep., 593) it was held that the doctrine established in the case of *Mapa vs. Insular Government* (10 Phil. Rep., 175) was adhered to, in the sense that fish ponds are considered to be agricultural lands; but, for the proper understanding of that finding, account must be taken of what the Supreme Court said in its decision in the case of *Mapa vs. Insular Government* (*supra*). In that case, in view of the fact that in sections 13 and 15 of the Act of Congress of July 1, 1902, no express definition of the phrase "agricultural

lands" was given, they referring solely to timber or mineral lands, this court, interpreting section 13 of said Act, which provides that "the Government shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral," held that in said Act of Congress there is to be found a definition of the phrase "agricultural public lands," and that the phrase "agricultural lands," "as used in Act No. 926 means those public lands acquired from Spain which are not timber or mineral lands;" and as in the said case of Mapa vs. Insular Government (supra) the question at issue concerned a tract of land that was neither timber nor mineral land, the court declared it to be comprised within the classification of agricultural land. It had been uninterruptedly, for more than twenty years, in the possession of the petitioner and his ancestors as owners and had been used during the said period as fishponds, nipa lands, and salt deposits.

But in the same decision just cited this court said that "the land in question in this case, which is used as a fishery, could be filled up and any kind of crops raised thereon." So that this court did not precisely classify the land concerned in the case of Mapa vs. Insular Government (supra) as agricultural land because it was used as a fishpond or was a fishery, or better said, on account of the very nature of the land, but because it considered the land to be included in the classification given in the Act of Congress in distinguishing agricultural from timber and mineral lands, with the understanding that all public lands acquired by Spain, that were neither mineral nor forest lands, fell within the definition of agricultural lands, as this phrase is used in Act No. 926. It is in this sense, then, that we must understand the finding made by this court in the case of Santiago vs. Insular Government (supra), that it adhered to the doctrine established in the case of Mapa vs. Insular Government, (supra), holding that fishponds are agricultural lands.

In the third place, in the case of Mercado vs. Collector of Internal Revenue (32 Phil. Rep., 271), this court made the following statements:

"1. Mangrove swamps are agricultural lands.—It has been expressly held by the courts of these Islands that mangrove swamps are agricultural, not mineral or forest land. (Mapa vs. Insular Government, 10 Phil. Rep., 175; Montano vs. Insular Government, 12 Phil. Rep., 572.)

"2. Internal Revenue Law; Tax on firewood; 'Bakawan.'—The raising of the plant or shrub known locally as bakawan, and the gathering of its trunk and branches for firewood and for trading purposes in the pueblos of these Islands constitute a genuine agricultural labor, as the sowing, planting, harvesting and preparation of other strictly agricultural products which require land cultivated and cared for similar to that required for raising bakawan for firewood, and therefore the owner of a mangrove swamp used for raising bakawan for firewood is a genuine and lawful agriculturist."

In said decision no reference whatever is made to fishponds or fisheries. The sole issue raised in the suit, as stated therein, was whether firewood produced from bakawan which was planted or which grew on the plaintiff's land, is an agricultural product in the sense that the owner thereof who cuts it for sale may be termed an agriculturist within the meaning of this word as used in the Internal Revenue Law (Act No. 1189), and, consequently, whether he is exempt from the payment of the taxes levied on the traffic of firewood; and said land was classified as agricultural land, thus differentiating it from mineral and forest lands, in accordance with the legal doctrine laid down in the case of Mapa vs. Insular Government; and mentioning firewood produced from bakawan planted on said land, we said that it was an agricultural product of this kind of land, that is, we referred to what, as aforesaid, should be considered as a genuine product of the land, to wit, the shrub called bakawan planted thereon.

In the decision above cited it was not said that mangrove swamp lands are precisely those where fishponds are constructed, as the appellant states in his brief in mentioning the principle laid down therein. In rendering that

decision no consideration at all was given to the fact that mangrove swamp land might, by reason of its natural conditions, serve as fishponds or fisheries; so that the legal doctrine established in said decision and which is above transcribed is absolutely inapplicable to the case at bar, in so far as relates to any deduction therefrom that the fish that are reproduced and raised on mangrove swamp lands, converted into fisheries, are agricultural products. On the contrary, what is to be deduced from said doctrine is that, when mangrove swamp lands are converted into fisheries and are not used for the planting of the plant or shrub known in this country by the name of bakawan—the cultivation of which constitutes a genuine agricultural labor—said land ceases by its nature to be agricultural land and the fish that are raised and reproduced thereon cannot be considered as agricultural products.

Though the mangrove swamp lands, by their special conditions, to wit, their proximity to the sea or to rivers, or because of their liability to overflow, are adequate for the construction thereon of fishponds or fisheries, from the moment they cease to be used for the planting or the cultivation of bakawan or other shrubs intended for domestic use, as for firewood, or which are the subjects of traffic or trade, and when such lands, by means of excavations made therein, are converted into fishponds in the manner mentioned in the appellant's brief, by placing therein young fish for the purpose of their development and reproduction, the fish hatched in said ponds being in time offered for sale by their owner—without all this being the direct result of the tillage and cultivation of the land, consisting in the preparation of the soil, the planting of the seed of those shrubs or of any kind of plants or vegetables whatsoever— then certainly said lands cease to be agricultural lands.

"Agriculture, as defined by Webster, is the art or science of cultivating the ground, including the harvesting of crops, and rearing and management of live stock." (Binzel vs. Groban, 29 N. W., 895.)

"It (farming) is understood to mean the business of cultivating land, or employing it for the purposes of husbandry." (In re Drake, 114 Fed. Rep., 229.)

And consequently neither can the fish grown, raised, and developed on these lands converted into fishponds or fisheries, be considered agricultural products.

"The common parlance of the country, and the common practice of the country, have been to consider all those things as farming products or agricultural products which had the situs of their production upon the farm, and which were brought into condition for the uses of society by the labor of those engaged in agricultural pursuits, as contra-distinguished from manufacturing or other industrial pursuits." (District of Columbia vs. Oyster, 54 Am. Rep., 275.)

The lower court, therefore, did not commit the first error assigned by the appellant in his brief, in not considering as agricultural products the fish raised or reproduced in fishponds.

The defendant-appellant having admitted that the fish raised in the three ponds owned by him in the pueblo of Sexmoan, Pampanga, are sold by him, some of them at the ponds themselves and others in the market, it is unquestionable that he is engaged in the sale of fish and, under this concept, is a merchant, pursuant to the provisions of Act No. 2339 and those of the Administrative Code, approved February 24, 1916, and for the purposes of the respective tax.

Section 40 of said Act No. 2339, after providing that all merchants not specifically exempted by said Act shall pay the tax therein specified, says: "Merchant, as here used, means a person engaged in the sale, barter, or exchange of personal property of whatever character," and this same definition is found in section 1614 of the Administrative Code. So then, contrary to the erroneous opinion of the defendant-appellant, it is not necessary that the person who sells such property should previously have bought it, in order that he may be considered a merchant, for the purposes of the law.

The language of the Act is clear and positive and can be given no other construction than that which from time to time has been given to it by the administrative officials in their enforcement of said Act, in harmony with the opinion of the Attorney-General transmitted by the Governor-General and Acting Secretary of Finance and Justice, on April 23, 1906, to the Collector of Internal Revenue, and mentioned by the Attorney-General in his brief; and this construction is accordant with the doctrine established by the courts:

"A merchant is one who traffics, or who buys and sells goods or commodities. He would be a merchant if his business consisted in buying without selling, and he might be a merchant by simply selling." (In re Cameron Town Mut. Fire, Lightning & Windstorm Ins. Co., 96 Fed. Rep., 756.)

"Every person who keeps for sale and sells any kind of article at a fixed price, is a merchant." (Washburn vs. City of Oshkosh, 19 N. W., 364.)

The defendant, then, being deemed under the law a merchant, and not being comprised, for the purposes of the tax prescribed in said section 40 of Act No. 2339 (which is the same provision contained in section 1614 of the Administrative Code) within the cases of exemption referred to by said two sections and by section 41 of the same Act No. 2339 and by section 1615 of the Administrative Code, it is evident that, by failing to make the return mentioned in section 39 of said law which corresponds to the aforementioned section 1614 of the said Code, he has incurred the punishment provided in section 169 of Act No. 2339, which is the same as that of section 2710 of the Administrative Code now in force. Therefore the lower court did not commit the errors Nos. 2, 3, 4, and 5, assigned by the appellant in his brief, except, with respect to these last two errors, in so far only as regards the finding of the defendant's guilt and the sentence imposed upon him in case No. 1698 for the violation of law that was the subject of the complaint in that case.

In the complaint that originated the proceedings against the defendant in case No. 1697, he was charged with a violation of section 169, in connection with section 45, subsection (p) of Act No. 2339, as amended, for having engaged in the sale of fish—a business subject to the payment of one-third of one per cent of the gross cash receipts from sales—without his having previously paid the proper license.

Said section 45, subsection (p), of Act No. 2339, specifies the sum of P8 as the fixed tax on business, that shall be collected from peddlers of merchandise traveling from place to place, except peddlers of food stuffs and those whose stock in trade amounts to less than P50 in value.

The facts were admitted by the defendant at the trial that he was accustomed to sell to purchasers of fish who were wont to go to his respective fishponds but not to sell them in the market, the fish raised in the three fisheries that he owned in the pueblo of Sexmoan, Pampanga, and that he also used to sell some of the said fish in the market, through means of his children or his servants who were in the habit of going there for that purpose.

It appears, therefore, that the defendant did not commit the violation of which he was charged in the complaint that originated case No. 1697, of section 45, subsection (p), of Act No. 2339—which is the same provision contained in section 1619, subsection (p), of the Administrative Code—because he was not a peddler of merchandise traveling from place to place, to whom said section refers. The trial court therefore erred in finding the defendant guilty of said alleged violation, and in sentencing him accordingly in the judgment rendered in said case No. 1697.

Finally, no failure to observe uniformity in the tax system of these Islands is committed, nor is there established any difference or inequality whatever prohibited by the Constitutional Bill of the Philippines, by the fact that, while the owners of fish ponds pay a land tax, five times greater, as the defendant-appellant says, than other land-owners, they are required to pay, in addition, another tax for the sale of their products.

In the first place, there is uniformity of taxation when the taxes are levied equally upon the persons or the property comprised or classified in each taxable group, in accordance with the manner in which the classification be made for the purposes of taxation, by the Legislature, which has this power as incidental to the principal power of levying taxes, in accordance with and in relation to the system adopted for the creation and fixing of taxes. In the case at bar, the tax on real estate and that of a certain per cent upon merchants have been established within the general uniform system; fisheries are subject to the first tax, and merchants to the second. The defendant-appellant, as a fishpond owner and merchant, is in the same conditions as other owners of fishponds and other merchants in these Islands, in respect to the payment of the respective tax. In the second place, the land tax paid by the owners of fishponds, that is, the tax on real estate, is different from the tax levied upon them as merchants, for the very reason that each of these taxes has a separate and distinct origin; one is a tax upon property, while the other, that is, the tax of a certain per cent upon merchants, is a tax on the occupation in which such merchants are engaged.

In this connection the citation made by the Attorney-General in his brief, taken from the decision in the case of *Bell's Gap R. R. Co. vs. Commonwealth of Pennsylvania* (134 U. S. 232, 10 Sup. Ct. 533; 33 L. Ed., 892) is to the purpose: "The provision in the XIV amendment, that no State shall deny to any person within its jurisdiction the equal protection of the laws, was not intended to prevent a State from adjusting its system of taxation in all proper and reasonable ways. It may, if it chooses, exempt certain classes of property from any taxation at all, such as churches, libraries and the property of charitable institutions. It may impose different specific taxes upon different trades and professions, and may vary the rates of exercise upon various products; it may tax real estate and personal property in a different manner; it may tax visible property only, and not tax securities for payment of money; it may allow deductions for indebtedness, or not allow them. All such regulations, and those of like character, so long as they proceed within reasonable limits and general usage, are within the discretion of the State Legislature, or the people of the State in framing their Constitution."

Said Internal Revenue Law is not, therefore, unconstitutional in so far as it fixes the tax which must be paid by those who, as merchants, sell fish obtained from their fishponds or fisheries, while liable at the same time to the payment of the proper land tax.

For the foregoing reasons, we affirm, the judgment appealed from, rendered in case No. 1698, with the costs against the defendant-appellant, and we reverse the judgment, also appealed from, rendered in case No. 1697, and freely absolve the defendant therefrom, with the costs of both instances de officio. Let a certified copy of this decision be attached to the record in said case No. 1697. So ordered.

Torres, J., concurs.

Moreland, Trent, and Carson, JJ., concur in the result.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.