43 Phil. 674

[G. R. No. 18778. August 18, 1922]

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. DIONISIO MACASINAG, DEFENDANT AND APPELLANT.

D E C I S I O N

STATEMENT

At all the times hereinafter stated A, L. Ammen Transportation Company was a corporation engaged in operating a line of motor trucks in the provinces of Camarines Sur and Albay for the transportation of freight and passengers, and the defendant was in its employ as the chauffeur of one of its trucks.

December 11, 1920, the district engineer met the truck which the defendant was driving on the provincial highway in the municipality of Bato, and found that there were forty-six passengers on it some of whom were riding on the running boards. Under the official rules and regulations, the capacity of the truck was limited to forty persons. The district engineer filed a complaint against the defendant for the violation of Act No. 2587 in the justice of the peace court of Bato upon which he was tried, convicted, and fined P80, from which judgment he appealed to the Court of First Instance where the case was again tried, and the defendant was convicted and sentenced to three months' imprisonment, for the assigned reason that the truck was a public vehicle, from which the defendant appeals to this court, claiming that the trial court erred in holding that the defendant and not the conductor of the auto truck was the person liable; in refusing to receive certain evidence; and in. finding the defendant guilty, and that the motor vehicle was a public one; and in the sentence which was passed.

Johns, J.:

The information alleges:

> "That on or about the 11th of December, 1920, in kilometer 48 of the Naga Boundary Road, between the municipalities of Nabua and Bato, Province of Camarines Sur, 'Philippine Islands, the said accused, being the chauffeur and driver of auto No. 5 of the A. L. A. T. Co., the capacity of which is only of 40 passengers, wilfully, criminally and feloniously carried in said auto 46 passengers, a number greater than that which its capacity permits, and admitted and placed them on the running boards of the said auto.
>
> "Contrary to law."

The testimony is conclusive that the auto truck was overloaded. Seeing this, the district engineer stopped it, and six passengers got off, and the trip was then continued. The evidence is somewhat conflicting as to the presence of the conductor or *cobrador* on the truck, and the district engineer testified that he did not see any conductor. Mr. Bowler, manager of the company, testified that there was a conductor in the car.

It will be noted that the information does not allege that the motor truck was a public vehicle.

Act No. 2159, as amended by section 9 of Act No. 2587, provides:

> "No person operating a motor vehicle is permitted to carry any person or persons on the running boards or mudguards of his car or to allow more passengers in his car than its1 actually fixed and registered carrying capacity."

The question here involved is the meaning of the words "operating a motor vehicle" as used in this section. The Attorney-General cites Sutherland on Statutory Construction, 2d ed., pages 684-685, which says:

> "* * * Where the law-maker declares its own intention in the enactment of a particular law, or defines the sense of the words it employs in a statute, it not only exercises its legislative power, but exercises it with a plausible aim; for it professes to furnish aid to a correct understanding of its intention, and thus to facilitate the primary judicial inquiry in the exposition of the law after it is finished, promulgated, and has gone into practical operation. The legislature in

> passing an Act may declare its meaning and construction, and such declaration will be binding on the courts. * * *"

That is good law.

Among others, section 1 of Act No. 2159, provides:

> "(*c*) 'Chauffeur' includes every person operating a motor vehicle for amusement or as a mechanic or employee for hire.
>
> "(*d*) 'Operating' and other inflections of that verb signify running, driving, guiding, controlling, or conducting a motor vehicle."

The weight of the evidence shows that there was a conductor on the car, and that his duties were to collect fares from the passengers, and to give the signal to the chauffeur to start and stop; that the chauffeur's duties were confined and limited to the operation of the machinery or mechanical part of the car, and that he did not have anything to do with the passengers, or their getting on or off the car, or the collection of fares, and that, as a matter of fact, he did not know that the car was overloaded. In other words, the car was operated similar to a passenger train in which the engineer, corresponding to the chauffeur here, has charge of the engine, and the conductor of the train, corresponding to the conductor of the truck here, has charge of the passengers, the running and stopping of the train and the collection of fares.

The statute above quoted defines the word "operating" in the alternative. To operate in a case where there is no conductor would include the chauffeur who was driving the car. In another, as in this case, where there was a conductor in charge of the car, the conductor would then be operating the car.

Here, under the facts shown, the functions of conducting the truck are separate and distinct from that of driving to the extent that the chauffeur was merely a mechanical driver of the truck over which the intelligent supervision was vested in the conductor. Of course, if there had not been a conductor and the chauffeur alone was in charge of the operation of the car, another and different question would be presented.

Every law should be construed by the rule of reason, and the surrounding facts and

circumstances. The Legislature must have known that, while a chauffeur is necessary to the operation of the motor car of the truck, yet, through actual experience upon the large cars, a conductor is also necessary for the collection of fares, the giving of signals to the chauffeur and the supervision of the passengers. It was never the purpose or intent of the Legislature, in this class of cases, to hold the chauffeur criminally liable for the commission of an act of which he did not have any knowledge, and over which he had no control or supervision. Under the facts shown here, the defendant was not operating the motor truck in question. It was the conductor as distinguished from the chauffeur who was operating the car.

The judgment is reversed and the defendant acquitted, with costs de officio. So ordered.

Araullo, C. J., Johnson, Street, Malcolm, Avanceña, Villamor, Ostrand, and *Romualdez, JJ.,* concur.

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