

43 Phil. 641

[G. R. No. 18838. July 25, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
TEOFILO GABRIEL, DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNS, J.:

The city of Manila, under section 749, as revised, enacted Ordinance No. 938, as follows:

“SEC. 749. *Bells and criers at auctions.*—No bell or crier, or other means of attracting bidders by the use of noise or show, other than a sign or flag, shall be employed or suffered or permitted to be used, except between the hours of eight antemeridian to twelve o'clock noon, and from two to seven o'clock postmeridian, during working days, at or near any place of sale or at or near any auction room or near any auction whatsoever: *Provided, however,* That the ringing of bells and the use of any megaphone, magnavox, and criers or other means of attracting buyers and bidders to any place of sale or auction shall be prohibited on Calles Escolta, Rosario, and Echague, and Plaza Santa Cruz and Plaza Goiti.”

The defendant was accused of a violation of this ordinance. The Municipal Court found him guilty and sentenced him to pay a fine of P10 and costs. On appeal the Court of First Instance affirmed the decision, from which the defendant appealed to this court, claiming that the court erred in holding the ordinance valid, or that the defendant had violated it, and in the passing of sentence.

It appears that on September 26, 1921, at about 11:20 a. m., a policeman, William S. Able, while passing through Rosario Street in the city of Manila, heard a crier of an auction sale in a place of business numbered 109 and 111 of the street, the voice of the crier to be heard at quite a little distance from the place, and the complaint in question was filed.

There is but little dispute about the facts.

Defendant's counsel contends that the ordinance discriminates and is void and unconstitutional. It will be noted that it applies alike to all persons on Calles Bscolta, Rosario, Echague, Plaza Santa Cruz, and Plaza Goiti. There is no discrimination against any person in business on those particular streets. It is in the nature of a police regulation, and to that extent is intended as a business regulation. It must be admitted that, under its police power, the City Council of Manila has authority to regulate and control public auctions within its city boundaries. For reasons satisfactory to the City Council, between certain hours and on those particular streets, the ordinance prohibits a crier or the use of a bell to attract bidders or anything other than a sign or flag.

We must assume that there was some good and sufficient reason why it was enacted, and it is not the province of this court to say whether or not its enactment was prudent or advisable. It is nothing more than a regulation of the business affairs of the city, and is a matter in the discretion of the council acting under its police power. There is no discrimination in the ordinance. It applies to all kinds and classes of people alike doing business within the prohibited area, and no person within the city limits has any legal or constitutional right to auction his goods without a license from, or the consent of, the city, and it must follow that, so long as the ordinance is uniform, the city has a legal right to specify how, when, where, and in what manner goods may be sold at auction within its limits, and to prohibit their sale in any other manner.

There is no merit in the defense. The judgment is affirmed, with costs. So ordered.

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