44 Phil. 527

[G.R. No. 19766. February 20, 1923]

LA CENTRAL AZUCARERA DE LA CARLOTA, PLAINTIFF AND APPELLEE, VS. ILDEFONSO COSCOLLUELA, PROVINCIAL TREASURER OF OCCIDENTAL NEGROS, DEFENDANT AND APPELLANT.

D E C I S I O N

STATEMENT

September 19, 1921, the plaintiff filed a complaint against the defendant Ildefonso Coscolluela, as treasurer of the Province of Occidental Negros, in which it alleges that it is a domestic corporation with its principal office in the City of Manila. That the defendant is the treasurer of the Province of Occidental Negros. "That plaintiff is and throughout the year 1920, was the owner of a mill and plantation railroad consisting of embankments, ties, rails, switches, tracks, and bridges used by plaintiff in connection with the locomotive cars and other appropriate appliances and apparatus which said plaintiff owns in the municipality of La Carlota, Occidental Negros, which said railroad is constructed upon land belonging to third persons, from whom plaintiff has obtained easements of way, and is used by it exclusively for the transportation of sugar-cane from the surrounding plantations to the mill which this plaintiff owns in said municipality; for the transportation of the products of said mill to the wharf of the plaintiff, and for the transportation of materials, supplies, and employees of plaintiff between its mill and said wharf, in the furtherance of plaintiff's business of milling sugar-cane and the manufacture of sugar under contract with sugar planters upon whose land the said railroad is constructed; and that said railroad is and at all times has been used exclusively for private industrial, agricultural, and manufacturing purposes as an integral part of plaintiff's sugar milling plant, composed of its said mill and the said railroad, and is situated in the Province of Occidental

Negros." That in the year, 1920, the board of assessors of the province appraised the said railroad for taxation purposes for the year 1921 at P1,439,867.73 upon which a tax was levied of P12,598.86. That about July 30, 1921, the defendant demanded the payment of the tax from the plaintiff which it paid to the defendant under duress and protest, and concurrent therewith delivered to him a written protest, claiming that the property was exempt from taxation by the terms of subsection (*f*), as amended, of section 344 of the Administrative Code of 1917. That plaintiff has demanded the repayment of the money which has been refused, for which it demands judgment with interest at 6 per cent from the date of the filing of the complaint, with costs.

For answer, the defendant admits all of the allegations of the complaint, "with the exception of paragraph 3 in so far as it refers to the fact that railroad tracks or rails are properties exempt from taxation."

And as special defense alleges:

> "That the rails or railroad tracks do not constitute the machinery itself, nor fall within the meaning of the terms machineries, mechanical devices, instruments, tools, utensils, accessories, and apparatus used for industrial, agricultural, and manufacturing purposes in order that they could be included within the exemption of subsection (*f*) of section 344 of the Administrative Code, such as said subsection (*f*) was amended by Act No. 2749 of the Legislature."

And that the amount claimed by the defendant is based upon the actual value of the railroad tracks, bridges, and improvements, the real property of the plaintiff, as it appears from the copy of the list of its property. Wherefore, the defendant prays for judgment, with costs.

July 3, 1922, the plaintiff filed a motion for judgment on the pleadings, and on August 24, 1922, the court rendered judgment in favor of the plaintiff as prayed for in its complaint, from which the defendant appeals, claiming that the lower court erred in holding that the railroad of the plaintiff constitutes machinery as denned in subsection (*f*) of section 344 of the Administrative Code of 1917, and in rendering judgment for the plaintiff.

JOHNS, J.:

Among other provisions for the exemption of property from taxation, subsection (*f*) of section 344 of the Administrative Code of 1917 provides:

> "Machinery, which term shall embrace machines, mechanical contrivances, instruments, tools, implements, appliances, and apparatus used for industrial, agricultural, or manufacturing purposes."

It is conceded that a plant for the manufacture of sugar within itself comes within the provisions of the Act, and is exempt from taxation, but it is vigorously contended that a railroad used for the transportation of sugar-cane to the mill and from the mill to the wharf is not machinery as thus defined.

In the Century Dictionary the word "machine" is defined as an engine, contrivance, device, stratagem; an instrument of force; and in Great Britain it includes a vehicle or conveyance, such as a coach, cab, gig, tricycle, bicycle.

> "Any organization by which power not mechanical is applied and made effective; the whole complex system by which any organization or institution is carried on."

The word "mechanical" is defined "pertaining to or exhibiting constructive power; of or pertaining to mechanism or machinery; also, dependent upon the use of mechanism; of the nature or character of a machine or machinery; as, *mechanical* inventions or contrivances; to do something by *mechanical* means."

The word "instrument" has a variety of meaning and is defined as "a tool, instrument, means, furtherance, dress, apparel, document; construct, prepare, furnish. Something that serves as a means to the effecting of an end; anything that contributes to the production of an effect or the accomplishment of a purpose; a means; an agency.

> "Something used to produce a mechanical effect; a contrivance with which to perform mechanical work of any kind; a tool, implement, utensil, or machine."

The word "implement" is defined "The act of fulfilling or performing: as, in *implement* of a contract. Whatever may supply a want; especially, an instrument, tool, or utensil; an instrumental appliance or means."

The word "appliance" is denned, first, "the act of applying, putting to use, or carrying into practice; second, something applied as a means to an end, either independently or subordinately; that which is adapted to the accomplishment of a purpose; an instrumental means, aid, or appurtenance: as, the *appliances* of civilization, or of a trade; mechanical, chemical, or medical *appliances*."

> "Material *appliances* have been lavishly used; arts, inventions, and machines introduced from abroad, manufactures set up, communications opened, roads made, canals dug, mines worked, harbours formed. (Buckle, Civilization, I.)"

The word "apparatus" is defined "make ready, prepare; an equipment of things provided and adapted as means to some end; especially, a collection, combination, or set of machinery, tools, instruments, utensils, appliances, or materials intended, adapted, and necessary for the accomplishment of some purpose."

> "The whole military *apparatus* of the archduke was put in motion."

The Attorney-General cites Cooley on Taxation, p. 357, third edition, in which it is said:

> "It is also a very just rule that, when an exemption is found to exist, it shall not be enlarged by construction. On the contrary, it ought to receive a

> strict construction; for the reasonable presumption is that the state has granted in express terms all it intended to grant at all, and that unless the privilege is limited to the very terms of the statute the favor would be extended beyond what was meant."

That is sound law, but, here, the intent is apparent. The purpose of exempting property "used for industrial, agricultural, or manufacturing purposes" is to promote and encourage industries and to develop the resources of the country. It is alleged in the complaint and legally admitted in the answer that the railroad in question "is constructed upon land belonging to third persons, from whom plaintiff has obtained easements of way, and is used by it exclusively for the transportation of sugar-cane from the surrounding plantations to the mill which this plaintiff owns, for the transportation of the products of said mill to the wharf, and for the transportation of materials, supplies, and employees of plaintiff between its mill and said wharf, in the furtherance of plaintiff's business of milling sugar-cane and the manufacture of sugar under contract with sugar planters upon whose land the said railroad is constructed," and that at all times it has been used exclusively for private industrial, agricultural, and manufacturing purposes as an integral part of plaintiff's sugar milling plant. Transportation to and from the plant is a very important item in the manufacture of sugar. It will be noted that the railroad is used exclusively for the delivery of cane to the mill and sugar to the wharf. Under such conditions it is a private railroad as distinguished from a public railroad within the meaning of the law. Legally speaking, it does not carry freight or passengers, and it would not be contended that it is a public utility, or that it comes under the control or jurisdiction of the public utility commissioner. The sole purpose and intent of the railroad is to promote the sugar industry and to lessen the cost of its production and increase its price to the producer. To all intents and purposes the railroad is connected with, and is a part of, the manufacturing plant itself. It is an appliance or apparatus by which the cane is removed from the field to the plant and the sugar from the plant to the wharf. In the final analysis, the railroad is used exclusively "for industrial, agricultural, or manufacturing purposes" in the production and manufacture of sugar. Otherwise, it would be a public utility and subject to public control. Under the facts shown to impose a tax upon the railroad would be *pro tanto* a tax upon the sugar industry itself, and

would violate the spirit and intent of the Act.

We hold with the trial court that so long as the railroad in question is exclusively used in the manner shown to exist that it is exempt from taxation.

The judgment of the lower court is affirmed, without costs to either party. So ordered.

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

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