

99 Phil. 975

[G.R. No. L-9167. September 27, 1956]

WE WA YU, PLAINTIFF AND APPELLEE, VS. CITY OF LIPA, DEFENDANT AND APPELLANT.

D E C I S I O N

BAUTISTA ANGELO, J.:

Plaintiff is the owner and manager of a gasoline station located in the City of Lipa where gasoline, kerosene, oil and the like are sold. He paid under protest to the city treasurer during the period from October 24, 1952 to September 30, 1953 the aggregate sum of P733.84 as taxes levied under Ordinance No. 457-A, as amended by Ordinance No. 462, imposing one-tenth (1/10) centavo per liter on the sale of gasoline and one-half (1/2) centavo per liter on the sale of alcohol, gas, or petroleum that may be made in any store or establishment within the city. To recover the amount paid on the ground that the two ordinances are ultra vires, he brought the present action in the Court of First Instance of Batangas. The City of Lipa put up the defense that the ordinances are valid because they were enacted pursuant to the power granted to it by the Charter, Republic Act No. 162.

The parties submitted a joint motion for judgment on the pleadings, and on May 27, 1954, the court rendered judgment declaring the ordinances ultra vires and ordering defendant to reimburse to plaintiff the amount of P733.84 and such other fees as plaintiff may have paid after the filing of the complaint. Defendant took the case directly to this Court.

Ordinance No. 457-A, as amended by Ordinance No. 462, of the City of Lipa, provides in section 1 as follows:

“SECTION 1.—There is hereby imposed a tax of one tenth (1/10) centavo per liter on the sale of gasoline and one-half (1/2) centavo per liter on the sale of alcohol, gas, petroleum, or all of any kindred type of combustible liquid made in any store or establishment by any person or entity within the City of Lipa.”

The above ordinances were enacted pursuant to section 15, paragraph (p), of Republic Act No. 162, otherwise known as Charter of the City of Lipa, which reads:

“SEC. 15. General powers and duties of the Board.—Except as otherwise provided by law, and subject to the conditions and limitations thereof, the Municipal Board shall have the following legislative powers:

(p) To tax, fix the license fee for, regulate the business and fix the location of, match factories, blacksmith shops, foundries, steam boilers, lumber yards, shipyards, the storage and sale of gunpowder, tar, pitch, resin, coal, oil, gasoline, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum, or any of the products thereof, and of all other highly combustible or explosive materials, and other establishments likely to endanger the public safety or give rise to conflagrations or explosion, and, subject to the rules and regulations issued by the Director of Health in accordance with law, tanneries, renderies, tallow chandleries, embalmers, and scrap factories.”

It is clear from the above that the City of Lipa is given the power and authority (1) to tax, (2) to fix the license fee for, (3) to regulate the business, and (4) to fix the location of * * * the storage and sale of oil, gasoline and the like. In other words, it is given the power to tax, fix the license fee for, or regulate the business affecting match factories, blacksmith shops, foundries, steam boilers, lumber yards, shipyards, the storage and the sale of oil, gasoline, petroleum and the like. It does not possess the power to impose a tax on specific articles which may take the form of specific tax. In order that such power may be exercised, the grant must be clear. It cannot be implied for the reason that a municipal corporation, unlike a sovereign state, does not possess inherent power of taxation.

It is settled that a municipal corporation, unlike a sovereign state, is clothed with no inherent power of taxation. The charter or statute must plainly show an intent to confer that power or the municipality cannot assume it. And the power when granted is to be construed *strictissimi juris*. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions—all these—have no place in the interpretation of the taxing power of a municipal corporations. [Icard vs. City Council of Baguio and the City of Baguio, 48 Off. Gaz., (Supp. 11) 320; Medina, et al. vs. City of Baguio, 48 Off. Gaz., No. 11, 4769].

The question now to be determined is: Do the ordinances impose merely a tax on the business of selling and storing oil, gasoline, or petroleum, or a specific tax on the article therein enumerated?

We are inclined to uphold the latter view for the reason that the tax which they seek to collect is imposed by "some standard of weight or measurement" and not regardless of it. Thus, the tax imposed is ₱10 centavo per liter on the sale of gasoline and 1 centavo per liter on the sale of alcohol, gas, or petroleum. And it has been held that "A tax which imposes a specific sum by the head or number, or some standard of weight or measurement, and which requires no assessment beyond a listing and classification of the objects to be taxed", is a specific tax (61 C. J., 74). It is the sense that the tax on manufactured oils and other fuels is imposed by the National Internal Revenue Code (section 142, Commonwealth Act No. 466, as amended by section 11, Republic Act No. 56). The tax is considered a specific tax if the amount is imposed per liter of volume capacity." It is therefore plain that the enactment of the ordinances in question is ultra vires.

There is a marked parallelism between the case of *Medina, et al. vs. City of Baguio*, supra and the present case. In the *Medina* case we said:

"An examination of section 2553 (c), of the Revised Administrative Code, as amended, will reveal that the power given to the City of Baguio to tax, to license and to regulate only refers to the business of the taxpayer and not to the articles used in said business. This is clearly inferred from a reading of said section and from the concluding sentence appearing therein, to wit, 'and such other businesses, trades and occupations as may be established or practised in the City.' One reason for this undoubtedly is the fact that under section 142 of the Internal Revenue Code (Commonwealth Act No. 466, as amended by the Republic Act No. 39), most of the products mentioned in the charter, particularly gasoline and oil, are already specifically taxed, and under section 361 of said code, the City of Baguio gets a share of 20 per cent of the amount of specific tax collected. At any rate, the charter of the City of Baguio does not show plainly an intent to confer that power upon the City of Baguio and, following the rule already adverted to, this doubt or ambiguity must be resolved against the city. An indication of the legislative intent on this matter is Commonwealth Act No. 472 which confers general authority upon municipal

councils to levy taxes, subject to certain limitations, wherein it was specifically provided that the general authority so conferred shall not include 'percentage taxes and taxes on specified articles.' In other words, the power to levy a percentage tax or a specified tax has been expressly withheld. It is, therefore, our considered opinion that Ordinance No. 100 is ultra vires and has no force and effect."

Wherefore, the decision appealed from is affirmed,

without pronouncement as to costs.

Paras, C. J. Padilla, Montemayor, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

RESOLUTION

February 25, 1957

In G. R. No. L-9167, *We Wa Yu vs. City of Lipa*, acting in the motion for reconsideration filed by appellant, the Court adopted the following resolution:

Considering that on June 14, 1956 Congress enacted Republic Act No. 1435 providing in section 4 that Municipal boards of councils may, notwithstanding the provisions of sections one hundred and forty-two and one hundred and forty-five of the National Internal Revenue Code, as herein above amended, levy an additional tax of not exceeding twenty-five percent of the rates fixed in said sections, on manufactured oils sold or distributed within the limits of the city or municipality";

Considering that municipal taxes heretofore levied by the city councils on gasoline, airplane fuel, lubricating oil and other fuels, were ratified and declared valid by said Act (Section 4);

Considering that the tax imposed by the ordinances in question does not go beyond the limit of twenty-five per cent of the rates prescribed in section 142 and 145 of the National Internal Revenue Code;

Considering that revenue acts, retroactively applied, are not open to the objection that they infringe upon the due process of law clause of the Constitution (Republic of the Philippines vs. Angelina Oasan, et al., supra, p. 934) ;

The decision of this Court dated September 27, 1956 is hereby modified by reversing the decision appealed from and dismissing the case, without costs.

Date created: October 10, 2014