

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
BACOLOD-MURCIA MILLING CO., MA-AO SUGAR CENTRAL CO., INC.,
TALISAY-SILAY MILLING COMPANY, DEFENDANTS AND
APPELLANTS.**

G.R. Nos. L-19824-26. July 09, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is a joint appeal by three sugar centrals, Bacolod-Murcia Milling Co., Inc., Ma-ao Sugar Central Co., Inc., and Talisay-Silay Milling Co., sister companies under one controlling ownership and management, from a decision of the Court of First Instance of Manila finding them liable for special assessments under Section 15 of Republic Act No. 632.

Republic Act No. 6321 is the charter of the Philippine Sugar Institute, Philsugin for short, a semi-public corporation created for the following purposes and objectives:

"(a) To conduct research work for the sugar industry in all its phases, either agricultural or industrial, for the purpose of introducing into the sugar industry such practices or processes that will reduce the cost of production, increase and improve the industrialization of the by-products of sugar cane, and achieve greater efficiency in the industry;

"(b) To improve existing methods of raising sugar cane and of sugar manufacturing;

"(c) To insure a permanent, sufficient and balanced production of sugar and its by-products for local consumption and exportation;

"(d) To establish and maintain such balanced relation between production and consumption of sugar and its by-products, and such marketing conditions therefor, as will insure stabilized prices at a level sufficient to cover the cost of production plus a reasonable profit;

"(e) To promote the effective merchandising of sugar and its by-products in the domestic and foreign markets so that those engaged in the sugar industry will be placed on a basis of economic security; and

"(f) To improve the living and economic conditions of laborers engaged in the sugar industry by the gradual and effective correction of the inequalities existing in the industry." (Section 2, Rep. Act 632)

To realize and achieve these ends, Sections 15 and 16 of the aforementioned law provide:

"Sec. 15. Capitalization.—To raise the necessary funds to carry out the provisions of this Act and the purposes of the corporation, there shall be levied on the annual sugar production a tax of TEN CENTAVOS [P0.10] per picul of sugar to be collected for a period of five (5) years beginning the crop year 1951-1952. The amount shall be borne by the sugar cane planters and the sugar centrals in the proportion of their corresponding milling share, and said levy shall constitute a lien on their sugar quedans and/or warehouse receipts."

"Sec. 16. Special Fund.—The proceeds of the foregoing levy shall be set aside to constitute a special fund to be known as the 'Sugar Research and Stabilization Fund,' which shall be available exclusively for the use of the corporation. All the income and receipts derived from the special fund herein created shall accrue to, and form part of, the said fund to be available solely for the use of the corporation."

The specific and general powers of the Philsugin are set forth in Section 3 of the same law, to wit:

"Sec. 3. Specific and General Powers.—For carrying out the purposes mentioned in the preceding section, the PHILSUGIN shall have the following powers:

"(a) To establish, keep, maintain and operate, or help establish, keep, maintain, and operate one central experiment station and such number of regional experiment stations in any part of the Philippines as may be necessary to undertake extensive research in sugar cane culture and manufacture, including studies as to the feasibility of merchandizing sugar cane farms, the control and eradication of pests, the selection and propagation of high-yielding varieties of sugar cane suited to Philippine climatic conditions, and such other pertinent studies as will be useful in adjusting the sugar industry to a position independent of existing trade preference in the American market;

"(b) To purchase such machinery, materials, equipment and supplies as may be necessary to prosecute successfully such researches and experiment work ;

"(c) To explore and expand the domestic and foreign markets for sugar and its by-products to assure mutual benefits to consumers and producers, and to promote and maintain a sufficient general production of sugar and its by-products by an efficient coordination of the component elements of the sugar industry of the country;

"(d) To buy, sell, assign, own, operate, rent or lease, subject to existing laws, machineries, equipment, materials, merchant vessels, rails, railroad lines, and any other means of transportation, warehouses, buildings, and any other equipment and material for the production, manufacture, handling, transportation and warehousing of sugar and its by-products;

"(e) To grant loans, on reasonable terms, to planters when it deems such loans advisable;

"(f) To enter, make and execute contracts of any kind as may be necessary or incidental to the attainment of its purposes with any person, firm, or public or private corporation, with the Government of the Philippines or of the United States, or any state, territory, or persons therefor or with any foreign government and, in general, to do everything directly or indirectly necessary or incidental to, or in furtherance of, the purposes of the corporation;

"(g) To do all such other things, transact all such business and perform such functions directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the corporation; and

"(h) Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Act."

The facts of this case bearing relevance to the issue under consideration, as recited by the lower court and accepted by the appellants, are the following:

"* * * during the 5 crop years mentioned in the law, namely, 1951-1952, 1952-1953, 1953-1954, 1954-1955 and 1955-1956, defendant Bacolod-Murcia Milling Co., Inc., has paid P267,468.00 but left an unpaid balance of P216,070.50; defendant Ma-ao Sugar Central Co., Inc., has paid P177,613.44 but left unpaid balance of P235,800.20; defendant Talisay-Silay Milling Company has paid P251,812.43 but left unpaid balance of P208,193.74; and defendant Central Azucarera del Danao made a payment of P48,897.73 but left an unpaid balance of P48,059.77. There is no question regarding the correctness of the amounts paid and the amounts that remain unpaid.

"From the evidence presented, on which there is no controversy, it was disclosed that on September 3, 1951, the Philippine Sugar Institute, known as the PHILSUGIN for short, acquired the Insular Sugar Refinery for a total consideration of P3,070,909.60 payable, in accordance with the deed of sale Exhibit A, in 5 installments from the proceeds of the sugar tax to be collected under Republic Act 632. The evidence further discloses that the operation of the Insular Sugar Refinery for the years, 1954, 1955, 1956 and 1957 was disastrous in the sense that PHILSUGIN incurred tremendous losses as shown by an examination of the statements of income and expenses marked Exhibits 5, 6, 7 and 8. Through the testimony of Mr. Cenon Flor Cruz, former acting general manager of PHILSUGIN and at present technical consultant of said entity, presented by the defendants as witness, it has been shown that the operation of the Insular Sugar Refinery has consumed 70% of the thinking time and effort of the PHILSUGIN management. * * *."

Contending that the purchase of the Insular Sugar Refinery with money from the Philsugin Fund was not authorized by Rep. Act 632 and that the continued operation of the said refinery was inimical to their interests, the appellants refused to continue: with their contributions to the said fund. They maintained that their obligation to contribute or pay to the said Fund subsists only to the limit and extent that they are benefited by such contributions since Rep. Act 632 is not a revenue measure but an Act which establishes a "special assessment." Adverting to the finding of the lower court that proceeds of the said Fund had been used or applied to absorb the "tremendous losses" incurred by Philsugin in its "disastrous operation" of said refinery, the appellants herein argue that they should not only be released from their obligation to pay the said assessment but be refunded, besides, of all that they might have previously paid thereunder.

The appellants' thesis is simply to the effect that the "10 centavos per picul of sugar" authorized to be collected under Sec. 15 of Republic Act 632 is a special assessment. As such, the proceeds thereof may be devoted only to the specific purpose for which the assessment was authorized, a special assessment being a levy upon property predicated on the doctrine that the property against which it is levied derives some special benefit from the improvement. It is not a tax measure intended to raise revenues for the Government. Consequently, once it has been determined that no benefit accrues or inures to the property owners, paying the assessment, or that the proceeds from the said assessment are being misapplied to the prejudice of those against whom it has been levied, then the authority to insist on the payment of the said assessment ceases.

On the other hand, the lower court adjudged the appellants herein liable under the aforementioned law, Republic Act 632, upon the following considerations.

First: Subsection (d) of Section 3 of Rep. Act 632 authorizes Philsugin to buy and operate machineries, equipment, merchant vessels, etc., and any other equipment and material for the production, manufacture, handling, transportation and warehousing of sugar and its by-products. It was, therefore, authorized to purchase and operate a sugar refinery.

Secondly, the corporate powers of the Philsugin are vested in and exercised by a board of directors composed of 5 members, 3 of whom shall be appointed upon recommendation of the National Federation of Sugar Cane Planters and 2 upon recommendation of the Philippine Sugar Association. (Sec. 4, Rep. Act 632) It has not been shown that this particular provision was not observed in this case. Therefore, the appellants herein may not rightly claim that there had been a misapplication of the Philsugin funds when the same was used to procure the Insular Sugar Refinery because the decision to purchase the said refinery was made by a board in which the appellants were fully and duly represented, the appellants being members of the Philippine Sugar Association.

Thirdly, all financial transactions of the Philsugin are audited by the General Auditing Office, which must be presumed to have passed upon the legality and prudence of the disbursements of the Fund. Additionally, other offices of the Government review such transactions as reflected in the annual report obliged of the Philsugin to

prepare. Among these offices are the office of the President of the Philippines, the Administrator of Economic Coordination and the Presiding Officers of the two chambers of Congress. With all these safeguards against any imprudent or unauthorized expenditure of Philsugin Funds, the acquisition of the Insular Sugar Refinery must be upheld in its legality and propriety.

Fourthly, it would be dangerous to sanction the unilateral refusal of the appellants herein to continue with their contribution to the Fund for that conduct is no different "from the case of an ordinary taxpayer who refuses to pay his taxes on the ground that the money is being misappropriated by Government officials." This is taking the law into their own hands.

Against the above ruling of the trial court, the appellants contend:

First. It is fallacious to argue that no mismanagement or abuse of corporate power could have been committed by Philsugin solely because its charter incorporates so many devices or safeguards to preclude such abuse. This reasoning of the lower court does not reconcile with what actually happened in this case.

Besides, the appellants contend that the issue on hand is not whether Philsugin abused or not its powers when it purchased the Insular Sugar Refinery. The issue, rather, is whether Philsugin had any power or authority at all to acquire the said refinery. The appellants deny that Philsugin is possessed of any such authority because what it is empowered to purchase is not a "sugar refinery" but a "central experiment station or perhaps at the most a sugar central to be used for that purpose." (Sec. 3(a), Rep. Act 682) For this distinction, the appellants cite the case of *Collector vs. Ledesma*, G. R. No. L-12158, May 27, 1959, in which this Court ruled that—

'We are of the opinion that a 'sugar central,' as that term is used in Section 189, applies to 'a large mill that makes sugar out of the cane brought from a wide surrounding territory,' or a sugar mill which manufactures sugar for a number of plantations. The term 'sugar central' could not have been intended by Congress to refer to all sugar mills or sugar factories as contended by respondent. If respondent's interpretation is to be followed, even sugar mills run by animal power (trapiche) would be considered sugar central. We do not think Congress ever intended to place owners of 'trapiches' in the same category as operators of sugar centrals.

"That sugar mills are not the same as sugar centrals may also be gleaned from Commonwealth Act No. 470 (Assessment Law). In prescribing the principle governing valuation and assessment of real property, Section 4 of said Act provides—

'Machinery permanently used or installed in sugar centrals, mills, or refineries shall be assessed.'

This clearly indicates that 'sugar centrals' are not the same as 'sugar mills' or 'sugar refineries.'"

Second. The appellants' refusal to continue paying the assessment under Republic Act 632 may not rightly be equated with a taxpayer's refusal to pay his ordinary taxes precisely because there is a substantial distinction between a "special assessment" and an ordinary tax. The purpose of the former is to finance the improvement of particular properties, with the benefits of the improvement accruing or inuring to the owners thereof who, after all, pay the assessment. The purpose of an ordinary tax, on the other hand, is to provide the Government with revenues needed for the financing of state affairs. Thus, while the refusal of a citizen to pay his ordinary taxes may not indeed be sanctioned because it would impair government functions, the same would not hold true in the case of a refusal to comply with a special assessment.

Third. Upon a host of decisions of the United States Supreme Court, the imposition or collection of a special assessment upon property owners who receive no benefit from such assessment amounts to a denial of due process. Thus, in the case of *Norwood vs. Baker*, 172 US 269, the ruling was laid down that—

"As already indicated, the principle underlying special assessments to meet the cost of public improvements is

that the property upon which they are imposed is peculiarly benefited, and therefore, the owners do not, in fact, pay anything in excess of what they received by reason of such improvement."

Unless a corresponding benefit is realized by the property owner, the exaction of a special assessment would be "manifestly unfair" (*Seattle vs. Kelleher*, 195 U.S. 351) and "palpably arbitrary or plain abuse" (*Gast Realty Investment Co. vs. Schneider Granite Co.*, 240 U.S. 57). In other words, the assessment is violative of the due process guarantee of the constitution (*Memphis vs. Charleston Ky. vs. Pace*, 283 U.S. 241).

We find for the appellee.

The nature of a "special assessment" similar to the case at bar has already been discussed and explained by this Court in the case of *Lutz vs. Araneta*, 98 Phil. 148. For in this *Lutz* case, Commonwealth Act 567, otherwise known as the Sugar Adjustment Act, "levies on owners or persons in control of lands devoted to the cultivation of sugarcane and ceded to others for a consideration, on lease or otherwise—

"a tax equivalent to the difference between the money value of the rental or consideration collected and the amount representing 12 per centum of the assessed value of such land." (Sec. 3)."

Under Section 6 of the said law, Commonwealth Act 567, all collections made thereunder "shall accrue to a special fund in the Philippine Treasury, to be known as the 'Sugar Adjustment and Stabilization Fund,' and shall be paid out only for any or all of the following purposes or to attain any or all of the following objectives, as may be provided by law." It then proceeds to enumerate the said purposes, among which are "to place the sugar industry in a position to maintain itself; * * * to readjust the benefits derived from the sugar industry * * * so that all might continue profitably to engage therein; to limit the production of sugar to areas more economically suited to the production thereof; and to afford labor employed in the industry a living wage and to improve their living and working conditions."

The plaintiff in the above case, *Walter Lutz*, contended that the aforementioned tax or special assessment was unconstitutional because it was being "levied for the aid and support of the sugar industry exclusively," and therefore, not for a public purpose. In rejecting the theory advanced by the said plaintiff, this Court said:

"The basic defect in the plaintiff's position is his assumption that the tax provided for in Commonwealth Act No. 567 is a pure exercise of the taxing power. Analysis of the Act, and particularly section 6, will show that the tax is levied with a regulatory purpose, to provide means for the rehabilitation and stabilization of the threatened sugar industry. In other words, the act is primarily an exercise of the police power.

"This Court can take judicial notice of the fact that sugar production is one of the great industries of our nation, sugar occupying a leading position among its export products; that it gives employment to thousands of laborers in fields and factories; that it is a great source of the state's wealth, is one of the important sources of foreign exchange needed by our government, and is thus pivotal in the plans of a regime committed to a policy of currency stability. Its promotion, protection and advancement, therefore redounds greatly to the general welfare. Hence it was competent for the legislature to find that the general welfare demanded that the sugar industry should be stabilized in turn; and in the wide field of its police power, the law-making body could provide that the distribution of benefits therefrom be readjusted among its components to enable it to resist the added strain of the increase in taxes that it had to sustain (*Sligh vs. Kirkwood*, 237 U.S. 52, 59 L. Ed. 835; *Johnson vs. State ex rel. Marey*, 99 Fla. 1311, 128 So. 853; *Maxcy Inc. vs. Moyo*, 103 Pla. 552, 139 So. 121).

"As stated in *Johnson vs. State ex rel. Marey*, with reference to the citrus industry in Florida—

"The protection of a large industry constituting one of the great source of the state's wealth and therefore directly or indirectly affecting the welfare of so great a portion of the population of the State is affected to such an extent by public interests as to be within the police power of the sovereign." (128 So. 857).

"Once it is conceded, as it must that the protection and promotion of the sugar industry is a matter of public concern, it follows that the Legislature may determine within reasonable bounds what is necessary for its protection and expedient for its promotion. Here, the legislative discretion must be allowed full play, subject only to the test of reasonableness; and it is not contended that the means Provided in section 6 of the law (above quoted) bear no relation to the objective pursued or are oppressive in character. If objective and methods are alike constitutionally valid, no reason is seen why the state may not levy taxes to raise funds for their prosecution and attainment. Taxation may be made the implement of the state's police power. (Great Atl. & Pac. Tea Co. vs. Grosjean, 301 U.S. 412, 81 L. Ed. 1193; U.S. vs. Butler, 297 U.S. 1, 80 L. Ed. 477; M'cullock vs. Maryland, 4 Wheat. 316, 4 L. Ed. 579)."

On the authority of the above case, then, We hold that the special assessment at bar may be considered similarly as the above, that is, that the levy for the Philsugin Fund is not so much an exercise of the power of taxation, nor the imposition of a special assessment, but, the exercise of the police power for the general welfare of the entire country. It is, therefore, an exercise of a sovereign power which no private citizen may lawfully resist.

Besides, under Section 2 (a) of the charter, the Philsugin is authorized "to conduct research work for the sugar industry in all its phases, either agricultural or industrial, for the purpose of introducing into the sugar industry such practices or processes that will reduce the cost of production, * * *, and achieve greater efficiency in the industry." This provision, first of all, more than justifies the acquisition of the refinery in question. Who can dispute that the operation of a sugar refinery is a phase of sugar production and that from such operation may be learned methods of reducing the cost of sugar manufacture no less than it may afford the opportunity to discover the more effective means of achieving progress in the industry? Philsugin's experience alone of running a refinery is a gain to the entire industry. That the operation resulted in a financial loss is by no means an index that the industry did not profit therefrom, as other gains of a different nature may have been realized. Thus, from its financially unsuccessful venture, the Philsugin could very well have advanced in its appreciation of the problems of management faced by sugar centrals. It could have understood more clearly the difficulties of marketing sugar products. It could have known with better intimacy the precise area of the industry in need of the most help from the government. The view of the appellants herein, therefore, that they were not benefited by the unsuccessful operation of the refinery in question is not entirely accurate.

Furthermore, Section 2(a) specifies a field of research which, indeed, would be difficult to carry out save through the actual operation of a refinery. Quite obviously, the most practical or realistic approach to the problem of what "practices or processes" might most effectively cut the cost of production is to experiment on production itself. And yet, how can such an experiment be carried out without the tools, which is all that a refinery is?

In view of all the foregoing, the decision appealed from is hereby affirmed, with costs.

Concepcion, C. J., Reyes, J. B. L., Barrera, Dizon, Bengzon, J.P., Zaldivar and Sanchez, JJ. ,concur.

Judgment affirmed.

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