

THE NATIONAL WATERWORKS AND SEWERAGE AUTHORITY (NWSA), PLAINTIFF-APPELLEE VS. QUEZON CITY AND THE CITY MAYOR, DEFENDANTS-APPELLANTS.

G.R. No. L-25310. April 26, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The National Waterworks and Sewerage Authority (NWSA for short) owns various parcels of land in Balara, Quezon City. It paid real property taxes for them to Quezon City, as follows:

1951 P 92,160.90

1952 37,031.63

1953 33,126.95

1954 34,477.42

1955 35,052.73

1956 168,286.80

1957 135,359.65

1958 174,694.47

1959 55,104.59

1960 55,160.25

1961 55,160.15

1962 108,969.00

TOTAL P984,494.54

Of the abovementioned taxes paid, only those for the years 1957 and 1961 were paid under protest.

On May 31, 1963, We promulgated our decision in Board of Assessment Appeals, Province of Laguna v. Court of Tax Appeals and NWSA, L-18125, declaring NWSA, a government corporation, exempt from real property tax pursuant to Sec. 3(a) of Commonwealth Act 470. Said Commonwealth Act 470 exempts from real property taxes, properties owned by the Republic of the Philippines. It is noteworthy that Quezon City's Charter,[*] also exempts said kind of property from realty tax.

On October 30, 1963, pursuant to the aforementioned decision of this Court, NWSA demanded, by letter to the Mayor of Quezon City, refund of the realty taxes paid by it from 1951 to 1962 in the total amount of P984,494.54.

Since Quezon City made no refund, NWSA filed on July 7, 1964, the present action in the Court of First Instance of Manila, for recovery of the P984,494.54 aforementioned. Three defenses were set up by defendant Quezon City in its answer: The taxes were paid without protest except for 1957 and 1961; taxes paid four years or more prior to the filing of the complaint have prescribed; and the taxes were collected under Republic Act 537 (Revised Charter of Quezon City), not under Republic Act 104, so that the Supreme Court decision in the Board of Assessment Appeals of Laguna case, *supra*, does not apply.

The parties thereafter stipulated that: (1) The total amount paid to Quezon City by NWSA as realty taxes is P984,494.54; (2) NWSA claimed refund on October 30, 1963; and (3) Prescription for refund of realty taxes erroneously paid is six years pursuant to Art. 1145, Civil Code.

On June 25, 1965, the Court of First Instance rendered judgment, ordering Quezon City to refund the realty taxes to NWSA, except those paid more than six years prior to the filing of the complaint.

The present appeal was then taken to Us by Quezon City. Assigned as errors are: First, the Court *a quo* erred in not declaring that NWSA's exemption started only from June 22, 1963, the effective date of Republic Act 3597 giving NWSA exemption from taxes; second, the Court *a quo* erred in applying the Board of Assessment Appeals of Laguna case, *supra*; Third, "the Court *a quo* erred in not requiring payment under protest for purposes of refund; and fourth, the Court *a quo* erred in granting exemption on lands of NWSA leased by it to private entities, thereby violating the rule of uniformity of taxation.

1. NWSA's charter was amended on June 22, 1963 by Republic Act 3597 providing exemption to NWSA from all taxes. Appellant urges the interpretation that Republic Act 3597's passage shows that NWSA enjoyed no tax exemption prior to that time.

Such submission is untenable. The properties of NWSA are exempt from realty tax as properties of the Republic of the Philippines under Sec. 47(a) of Republic Act 537 (Revised Charter of Quezon City). And as held in Board of Assessment Appeals of Laguna v. Court of Tax Appeals, *supra* NWSA's properties are exempt from realty tax as properties of the Republic of the Philippines, regardless of the nature of said property, whether public or patrimonial.

2. Appellant however disputes the applicability of the Board of Assessment Appeals of Laguna case, on the ground that it was not a party thereto. Appellant forgets that said case is not being applied on the principle of *res judicata* but on that of *stare decisis*. The statutory construction made in said case, resulting in the ruling that NWSA's properties are exempt from realty tax, is applicable herein.

3. Republic Act 537 (Revised Charter of Quezon City) in Section 63 provides: "No court shall entertain any suit assailing the validity of a tax assessed under this article until the taxpayer shall have paid, under protest, the taxes assessed against him, .."

Since NWSA did not pay under protest the realty taxes in question, except for 1957 and 1961, recovery thereof cannot be made as to said unprotested payments.

NWSA however claims that it made payments without protest because it honestly, though erroneously, believed that it was liable for said taxes in the light of Republic Act 104. Said Republic Act requires government corporations to pay duties, fees and other charges upon their transaction, business, industry, sale, or income as are imposed by law upon individuals, associations, or corporations engaged in taxable business. And, it is argued by NWSA, the payments having been made in good faith, they are in the nature of *solutio indebiti*, so that an action for their recovery falls under the rules and concept of an ordinary action, not necessitating the prerequisite of payment under protest.

The Court a quo on this point held that Section 63 of Republic Act 537 requiring protest at the time of payment is not applicable. It premised this conclusion on the reasoning that NWSA innocently paid the taxes in question despite its exemption, believing it was not exempt, and thus NWSA could not be required or expected to pay under protest when it then really believed that it was liable.

NWSA's aforesaid contention and the Court a quo's reasoning fall in the face of the fact that NWSA did pay under protest the taxes for 1957 and 1961. And thus, as far as the years subsequent to 1957 are concerned, it cannot be said that NWSA could not be expected to pay under protest because it paid in the innocent belief that it was liable for said taxes. And as for the taxes paid before 1957, the same are not involved in this appeal, since the action to recover them was held to have prescribed in the decision of the Court a quo, from which NWSA did not appeal.

Stated otherwise, this appeal concerns only the taxes paid for 1958 to 1962 (total amount: P449,088.46). Starting from 1957 up to 1962, NWSA already knew it was exempt, as shown by its payment in 1957 under protest, reiterated in 1961. NWSA, therefore, should have paid the rest of the taxes from 1957 to 1962 under protest. Sec. 63 of Republic Act 537 applies to said payments and their recovery. Said law, it should be noted, directs its limitation to the court, not to the taxpayer, stating that no court can entertain a suit unless the taxes are paid under protest.

Accordingly, NWSA can only recover the taxes paid for 1961, in the amount of P55,160.15. As stated, the tax paid for 1957, altho under protest, cannot be recovered because of prescription, suit having been filed more than six years after 1957, on July 17, 1964[*]

4. Anent the fact that some lots of NWSA were leased to private entities — the Capitol Hills Golf Club and the International Development Corporation — the same does not defeat the exemption, in the light of the ruling in the Board of Assessment Appeals of Laguna case, *supra*, that the exemption obtains even as to properties that are patrimonial in nature, as long as they are owned by the Republic of the Philippines, which includes NWSA.

WHEREFORE, the appealed judgment is hereby modified, so as to allow plaintiff NWSA to recover only the realty taxes it paid under protest to the defendant for the year 1961, in the amount of P55,160.15. No costs.

SO ORDERED.

Reyes, J.B.L., Acting C.J. and Dizon, J. concur in the result. Ruiz Castro reserves his vote.

Judgment modified.

[*] See. 27, Com. Act 502; Sec. 47(a), Rep. Act 537.

[*] Real property tax for 1957 was payable on May 31, 1957 at the latest (Sec. 52, Rep. Act 537). Six years therefrom lapsed on May 31, 1963, even before NWSA's written extrajudicial demand on October 30, 1963.

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