

PEDRO BAUTISTA, FABIAN MALIGSA, APOLINARIO DEL FERNANDEZ, AQUILINO DEL ROSARIO, GREGORIO HIQUIANA, DIONISIO DE GUZMAN, S.W. LEE, CELEDONIO F. BAUTISTA, JUSTINIANO DE GUZMAN, ANE...

G.R. No. L-39008. October 28, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a case elevated to Us by the Court of Appeals[*] because the same involves pure questions of law. The elevated decision of the Court of First Instance of Pangasinan, Dagupan City, in Civil Case No. D-1391, Bautista, et al. v. The Municipality of San Jacinto, et al., upheld the validity of a Municipal Ordinance and denied the Recovery of a Sum of Money Paid under Protest. The dispositive portion of the decision of the Court of First Instance, reads;

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment declaring the Municipal Council of San Jacinto and its Municipal Mayor empowered by law to enact Ordinance No. 8, Series 1960; that said ordinance is valid and the amount imposed therein per cubic meter of sand and gravel, just, reasonable, and that the ordinance in question and its implementation as provided for by the same are not repugnant to the Constitution." (Amended Record On Appeal, p. 31)

However, the Court of Appeals in its decision in CA-G.R. No. 36638-R, promulgated on July 5, 1974, found that the issues raised are purely, legal and elevated the case to the Supreme Court.

As gathered from the records, the factual background of this case is as follows:

Appellants are building contractors engaged in selling sand and gravel for various private and public works projects and constructions in the province of Pangasinan.

On September 8, 1960, respondent Municipality of San Jacinto approved Municipal Ordinance No. 8, which provides as follows:

"AN ORDINANCE IMPOSING A MUNICIPAL TAX OF TEN (P0.10) CENTAVOS PER C.M. OF SAND AND GRAVEL TAKEN FROM THE TERRITORIAL LIMITS OF SAN JACINTO, PANGASINAN.

"Be it ordained by the Municipal Council of San Jacinto, Pangasinan.

"SEC. 1. Any person or persons who take sand and gravel from and within the territorial limits of San Jacinto, Pangasinan shall pay a Municipal Tax of Ten (P0.10) CENTAVOS per cubic meter.

"SEC. 2. The mode of payment will be on cash basis - (Pay as you take) to the Municipal Treasurer or his authorized agents.

"SEC. 3. Any violation to this ordinance shall subject the guilty party to a fine of ONE HUNDRED (P100.00) PESOS or an imprisonment of THIRTY (30) DAYS or both such fine and imprisonment upon the discretion of

the Court.

"SEC. 4. All ordinances or Municipal orders whose provisions are in conflict with the provisions of this ordinance are hereby repealed." (Amended Record on Appeal, pp. 7-8).

Thereunder, respondent Municipality sought to impose on appellants as such dealers in gravel and sand, taken within the territorial limits of the Municipality of San Jacinto, Pangasinan, a Municipal Tax of P0.10 per cubic meter of sand and gravel. Appellants paid under protest and filed an action against the Municipality of San Jacinto, Province of Pangasinan, the Municipal Mayor, the Chief of Police and the Municipal Treasurer of said Municipality for the purpose of annulling said ordinance for being unconstitutional and null and void on the grounds, among others, (1) that the municipality is not empowered by law to regulate and impose taxes for the use of any public roads; (2) that the municipality is not the owner of the sand and gravel hauled and taken therefrom; (3) that Municipal Ordinance No. 8 restricts freedom of plaintiffs-appellants to pass along the National Provincial and Municipal Streets (4) that the municipality tends to establish toll fees for which it is not empowered under the Administrative Code; (5) that it imposes double taxation, unreasonable and unjust; and (6) that the police authorities of said municipality employ force to prevent plaintiffs-appellants from passing without first paying aforesaid fees (Record on Appeal, pp. 3-4).

Plaintiffs-appellants also sought to recover the amounts paid by them under protest, costs and other damages. A writ of preliminary injunction was prayed for, but on opposition of the Asst. Provincial Fiscal, the writ was denied by the trial court (Record on Appeal, 15).

In their answer, respondents insisted among others, on the power of the municipality to enact and adopt the ordinance in question by virtue of the provisions of Republic Act 2264 and claimed that the collection of taxes being an inherent power of the State cannot be enjoined (Record on Appeal, p. 16).

Thereafter, on March 5, 1964 the parties submitted the following stipulation of facts:

"1.

That the parties admit that on September 5, 1960, the defendants Municipality through its Municipal Council passed and approved Municipal Ordinance No. 8, marked as ANNEX 'A' and made an integral part of the Complaint;

"2.

That the defendant Municipality has been, and still is, enforcing the said Municipal Ordinance No. 8, and that pursuant to the said Municipal Ordinance No. 8, the defendant Municipality has been collecting, and the plaintiffs have been paying to the defendant, under protest, some amounts equivalent to TEN CENTAVOS (P0.10) per cubic meter of sand and gravel hauled by the plaintiffs from some lands situated within the geographical limits of the defendant Municipality, although some of the plaintiffs have 'failed' to pay the corresponding fees under the said Ordinance;

"3.

That the defendant Municipality admits that all the plaintiffs are sand and gravel contractors;

"4.

That the defendants also admit that on June 25, 1962, the Provincial Board of Pangasinan, passed and approved Resolution No. 691 s. 1962, a true copy of which is attached to the record of this case on page 28 thereof, marked as Exhibit 'E';

"5.

That the amounts actually collected from, and paid, by the plaintiffs to the defendant under the said Municipal Ordinance No. 8, and the amounts of the damages in-curred by the plaintiffs; as well as the amount which the plaintiffs, or some of them, have not yet paid under said Ordinance, and all other controverted facts shall be the subject of proof by the respective parties during the trial of this case." (Amended Record on Appeal, pp. 13-14).

After trial, respondent court decided in favor of respondent and upheld the validity of Ordinance No. 8, series 1960.

Hence, this appeal.

In the resolution of the First Division of this Court, this case (UDK-1736) was ordered docketed in this Court.

The following assignments of error were raised in the Court of Appeals:

I

THE TRIAL COURT ERRED IN DECLARING THAT THE MUNICIPAL COUNCIL OF SAN JACINTO AND ITS MAYOR ARE EMPOWERED BY LAW TO ENACT ORDINANCE NO. 8 s. 1960, ANNEX 'A'.

II

THE TRIAL COURT ERRED IN DECLARING THAT SAID ORDINANCE No. 8 s. 1960 IS VALID AND BINDING UPON EVERYBODY IN ITS ENTIRETY.

III

THE TRIAL COURT ERRED IN DECLARING THAT THE MUNICIPAL LICENSE FEE OF 10 CENTAVOS PER CUBIC METER OF GRAVEL AND SAND IMPOSED BY THE ORDINANCE IS REASON-ABLE, EQUITABLE AND JUST.

IV

THE TRIAL COURT ERRED IN NOT CONSIDERING THE PLEA OF THE PLAINTIFFS THAT THIS ASSESSMENT OF P0.10 PER CUBIC METER IMPOSED BY THE ORDINANCE No. 8 WOULD CONSTITUTE DOUBLE TAXATION.

V

THE TRIAL COURT ERRED IN NOT DECLARING UNCONSTITUTIONAL, IF NOT UNJUST AND BURDEN SOME, TO TAX PAYERS, THE IMPOSITION IN ORDINANCE No. 8 OF AN IMPRISONMENT OF 30 DAYS AND FINE OF P100.00 FOR VIOLATION THEREFOR.

VI

THE TRIAL COURT ERRED FINALLY IN NOT DECLARING THAT MUNICIPAL ORDINANCE NO. 8 S. 1960 IS NULL AND VOID AND NOT BINDING UPON ALL THE PLAINTIFFS.

The issue as to whether or not respondent municipality has the power under the law to pass the ordinance in question has already been laid to rest in a line of decisions.

Thus, in a similar case, this Court held:

"The Local Autonomy Act (supra), which was approved on June 19, 1959 and which was the statute governing the case bar at its incipience, has been superseded by the Local Tax Code in so far as the taxing power of provinces, cities, and municipalities are concerned. Further-more, by the express language of section 64-A of the Local Tax Code 'all existing tax ordinances of provinces, cities, municipalities and barrios shall be deemed ipso facto nullified on June 30, 1974'. Plainly, the issue elevated in this appeal has become moot and academic. And where the issues have become moot and academic, there is no justiciable controversy, so that a declaration on the validity or invalidity of the ordinance would be of no practical use or value." (Southern Asia Manufacturing Corporation vs. The Municipal Council of Tagbilaran, 94 SCRA 345-346 /1979/).

This Court has invariably held that where no useful purpose would be served by the passing on the merits of this case and any ruling thereon could hardly be of any practical or useful purpose in the premises, a court should not determine moot questions or abstract propositions, nor express an opinion for which no practical relief can be granted. (Central Azucarera Don Pedro vs. Don Pedro Security Guards Union, 22 SCRA 1053 /1968/); Bongac vs. Bureau of Labor Relations, 136 SCRA 225 /1985/; National Union of Garments Textile Cordage and General Workers of the Philippines (GATCORD) vs. Ministry of Labor, 137 SCRA 341 /1985/; Lomo vs. Mabelin, et al., 146 SCRA 473 /1986/).

PREMISES CONSIDERED, this appeal is DISMISSED for being moot and academic.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Justice Roseller T. Lim, concurred in by Justices Jose N. Leuterio and Francisco Tantuico, Jr.

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