

BLUE BAR COCONUT COMPANY, PLAINTIFF AND APPELLEE, VS. THE CITY OF ZAMBOANGA, DEFENDANT AND APPELLANT.

G. R. No. L-20425. December 24, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal on points of law from a judgment of the Court of First Instance of Zamboanga City.

Questioning the validity of a municipal license tax on sale and/or export of coconut under Zamboanga City Ordinances Nos. 340 and 357, Series of 1950, the Blue Bar Coconut Co. brought action to recover license taxes paid under protest, plus interest and attorney's fees. After issue was joined and the parties heard, the Court of First Instance, in view of the Supreme Court's decision in 109 Phil. 58, Zamboanga Copra Procurement Corp. vs. Zamboanga City (promulgated on July 30, 1960) declaring void and ultra vires the aforementioned ordinances, rendered judgment, ordering the City Treasurer of Zamboanga City to refund P12,397.47, with interest at the legal rate from the filing of the complaint until payment, plus P400.00 as reasonable attorney's fees.

The only issue submitted by appellant is the legality of the award of interest and attorney's fees.

That a municipal corporation may be required to pay interest on taxes illegally collected by it has already been ruled by this Court in *Macondray & Co. vs. Sarmiento*, 90 Phil. 709, and *Vda. y hijos de Roxas vs. Rafferty*, 37 Phil. 957.

Said this Court in the *Rafferty* case (37 Phil., at 966):

"* * * Even where the stricter rule is observed, as in Illinois, it is nevertheless settled that a municipal corporation which wrongfully exacts money and holds the same without just claim or right is liable for interest thereon. (*City of Chicago vs. N. W. Mutual Ins. Co.* [1905], 218 Ill., 40. See also *In re O'Eery* [1904], 179 N. Y., 285.) Laches on the part of the plaintiff would, of course, defeat the right to recover interest. (*Eedfield vs. Ystefera Iron Co.* [1884], 110 U. S., 174.)

The city of Manila, a public corporation, even in the absence of statute, is liable to pay interest at the legal rate, from the date of exaction, on the amount of taxes illegally collected."

It is but fair that the City should pay this interest from 1955, irrespective of its good faith, since from that date it has had the use of the taxpayer's money that it illegally exacted.

With regard to the attorney's fees, we find no error in allowing them. The contrary holding would mean that, in addition to being compelled to submit to an improper exaction, the taxpayer must lose the amount of attorney's fees in getting back the money he had to pay under protest, and of which it should not have been deprived at all. We fail to see any justice in the appellant's claim.

Wherefore, the decision and order appealed from are affirmed, with costs against appellant.

Bengzon, C. J., Bautista Angelo, Concepcion, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur

Decision and order affirmed.

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