

C. N. HODGES, PETITIONER AND APPELLANT, VS. THE MUNICIPAL BOARD OF THE CITY OF ILOILO, ET AL., RESPONDENTS AND APPELLANTS.

G. R. No. L-18129. January 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On June 13, 1960, the Municipal Board of the City of Iloilo enacted ordinance No. 33, series of 1960, pursuant to the provisions of Republic Act No. 2264, known as the Local Autonomy Act, requiring any person, firm, association or corporation to pay a sales tax of 1/2 of 1% of the selling price of any motor vehicle and prohibiting the registration of the sale of the motor vehicle in the Motor Vehicles Office of the City of Iloilo unless the tax has been paid. It is expressly required therein that the payment of the municipal tax shall be a requirement for registration and transfer of ownership, the tax to be paid in the office of the city treasurer, and that the tax receipt shall be made part of the documents to be presented to the Motor Vehicles Office.

C. N. Hodges, who was engaged in the business of buying and selling second-hand motor vehicles in the City of Iloilo, is one of those affected by the enactment of the ordinance, and believing that the same is invalid for having been passed in excess of the authority conferred by law upon the municipal board, he filed on June 27, 1960 a petition for declaratory judgment with the Court of First Instance of Iloilo praying that said ordinance be declared void ab initio, and that the City of Iloilo be ordered to refund to him the amounts he was required to pay thereunder without prejudice of determining its validity in an appropriate action.

The City of Iloilo, in its answer, justified the approval of the ordinance alleging that the same was approved by virtue of the power and authority granted to it by Section 2 of Republic Act No. 2264, known as the Local Autonomy Act.

A copy of the petition for declaratory judgment was furnished the Solicitor General in accordance with Section 4, Rule 66, of the Rules of Court.

The case having been submitted under a stipulation of facts, the court a quo rendered decision on December 8, 1960 holding that part of the ordinance which requires the owner of a used motor vehicle to pay a sales tax of 1/2 of 1% of the selling price is valid, but the portion thereof which requires the payment of the tax as a condition precedent for the registration of the sale in the Motor Vehicles Office is invalid for being repugnant to Section 2(h) of Republic Act 2264.

Both parties have appealed.

Section 2 of Republic Act No. 2264, known as the Local Autonomy Act, pursuant to which the ordinance in question, was approved by the Municipal Board of the City of Iloilo, provides in part:

"SEC. 2 Taxation.—Any provision of law to the contrary notwithstanding, all chartered cities, municipalities and municipal districts shall have authority to impose municipal license taxes or fees upon persons engaged in

any occupation or business, or exercising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, the municipal council of the municipality or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: Provided, That municipalities and municipal districts shall, in no case, impose any percentage tax on sales or other taxes in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the national internal revenue code: * * *

It would appear that the City of Iloilo, thru its municipal board, is empowered (a) to impose municipal licenses, taxes or fees upon any person engaged in any occupation or business, or exercising any privilege, in the city; (b) to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation conducted within the city; and (c) to levy for public purposes just and uniform taxes, licenses of fees. It would also appear that municipalities and municipal districts are prohibited from imposing any percentage tax on sales or other taxes in any form on articles subject to specific tax, except gasoline, under the provisions of the National Internal Revenue Code.

From a cursory analysis of the provisions above-stated we can readily draw the conclusion that the City of Iloilo has the authority and power to approve the ordinance in question for it merely imposes a percentage tax on the sale of a second-hand motor vehicle that may be carried out within the city by any person, firm, association or corporation owning or dealing with it who may come within its jurisdiction. Indeed, it cannot be disputed that a sales tax of 1/2 of 1% of the selling price of a second-hand motor vehicle comes within the category of a just tax within the provision of Section 2 of Republic Act 2264. It is true that the tax in question is in the form of a percentage tax on the proceeds of the sale of a second-hand motor vehicle which comes within the prohibition of the section above adverted to; but the prohibition only refers to municipalities and municipal districts and does not comprehend chartered cities as the City of Iloilo .

But the ordinance, besides imposing a percentage tax, also imposes an additional requirement. It provides, that the payment of the tax shall be a requirement for registration and transfer of ownership and that unless the tax is paid the registration and transfer of ownership cannot be effected in the Motor Vehicles Office of the city. The court a quo considered this portion invalid reasoning as follows: "Chartered cities are not authorized to establish any condition on the registration of motor vehicles. To require the payment of sales tax before the registration of the sale can be made in the Motor Vehicles Office, is tantamount to imposing a tax for the registration of motor vehicles."

We disagree. The court a quo undoubtedly had in mind the provision of Section 2 (h) of Republic Act No. 2264 which prohibits a, chartered city from imposing a tax on the registration of motor vehicles and the issuance of all kinds of licenses or permits for the driving thereof, which is one of the exceptions constituting a restriction on the taxation power granted by said Act to a city, municipality or municipal district. But the requirement of the ordinance cannot be considered a tax in the light viewed by the court a quo for the same is merely a coercive measure to make the enforcement of the contemplated sales tax more effective. Well-settled is the principle that taxes are imposed for the support of the government in return for the general advantages and protection which the government affords to taxpayers and their property (*Union Refrigerator Transit Co. vs. Com.* 26 S. Ut. 36, 199 1 (2nd) 169). Taxes are the lifeblood of the government. It is imperative that the power to impose them be clothed with the implied authority to devise ways and means to accomplish their collection in the most effective manner. Without this implied power the end of government may falter or fail.

"It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the

following powers, and no others; First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation—not simply convenient, but indispensable." (Dillon, *Municipal Corporations*, 5th Ed., Vol. I, p. 449; citing *Cook Co. vs. McCrea*, 93 Ill. 236; *Ottawa vs. Carey*, 108 U. S. , 110.)

"Municipal corporations may exercise all powers in the fair intent and purpose of their creation which are reasonably proper to give effect to the powers expressly granted, and in so doing they have the choice of the means adapted to the ends and are not confined to any one mode of operation." (62 C.J.S., Section 117, citing *Spahn vs. Stewart*, 103 S. W. 2d 651, 559, 268 Ky. 97; *Riddle vs. Ledbetter*, 5 S. E., 2d 542, 216 N.C. 491)

"If the power of municipalities are to be confined to those expressly granted by the law, in many cases they will be denied even the power of self-preservation as well as of the means necessary to accomplish the essential object of their creation. Hence in giving corporations authority to carry out the powers expressly granted to them, it is understood that they are also given the power to adopt such means as may be necessary for accomplishing their ends." (Sinco, *Philippine Political Law*, 10th Ed., p. 688, citing *Smith vs. New Bern* , 16 Am. Rep, 766.)

We are, therefore, of the opinion that the ordinance in question is valid it being exercise of the power of taxation granted to Iloilo City by Section 2 of Republic Act No, 2264.

Wherefore, the decision appealed from is modified by declaring Ordinance No. 33 of the City of Iloilo valid even with regard to the portion which requires the payment of the tax as a condition precedent for the registration of the sale in the Motor Vehicles Office of said City. No costs.

Bengzon, C. J., Labrador , Concepcion , Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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