

**MUNICIPAL BOARD, IN REPRESENTATION OF THE CITY OF CEBU,
PETITIONER, VS. COURT OF TAX APPEALS, BOARD OF ASSESSMENT
APPEALS, CEBU CITY AND AGUSTIN JEREZA, FOR AND IN BEHALF
OF THE...**

G.R. No. L-18946. December 26, 1964

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BENGZON, J. P., J.;

In letters to the City Assessor of the City of Cebu dated June 17, 1959 and January 29, 1960, the University of Southern Philippines Foundation, through its president, Mr. Agustin Jereza, applied for inclusion in the list of real estate exempt from real property taxation the following parcels of land which it leased from various persons for school purposes:

Lot No.

Owner

313

Agustin Jereza

317

Agustin Jereza

339

Agustin Jereza

340

Agustin Jereza

493

Agustin Jereza

Lot No.

Owner

495 A

Agustin Jereza

495 B

Agustin Jereza

341

Heirs of Filomena Duterte

342

Heirs of Filomena Duterte

460 A

Soledad D. Sanson

460 B

Soledad D. Sanson

In reply, the City Assessor informed the University of Southern Philippines Foundation that the aforesaid lots were considered exempt from real property taxation except Lots Nos. 313, 317, 340, 341, 342 and 460 B, rentals of which were paid their owners at P40.00, P50.00, P50.00, P85.00, P85.00, and P50.00 per month, respectively.

Not satisfied with the letter-decision of the City Assessor, the University of Southern Philippines Foundation appealed to the Board of Assessment Appeals of the City of Cebu. After hearing, said Board rendered its decision granting exemption to Lots Nos. 313, 340, 341, 312 and 460 B. From this decision, the Municipal Board, in representation of the City of Cebu, appealed to the Court of Tax Appeals.

On July 20, 1961, after issues were joined and the case was submitted for decision on a stipulation of facts* the Court of Tax Appeals, declined from passing upon the merits of the other issues raised by the parties, dismissed the case on the ground that the City of Cebu, represented by its Municipal Board, cannot appeal from the decision of the Board of Assessment Appeals, citing the decisions of this Court in *Collector of Customs vs. Court of Tax Appeals, et al.* (102 Phil., 244) and *Ursal vs. Court of Tax Appeals, et al.* (101 Phil., 209, April 26, 1957). The conclusion reached by the Court of Tax Appeals is premised on the theory that the Board of Assessment Appeals is merely the instrumentality of the City of Cebu and the latter being a governmental agency is not among those who may appeal to the Court of Tax Appeals enumerated in Section 11 of Republic Act No. 1125.

The Municipal Board for and in representation of the City of Cebu appealed to Us from the judgment of the Court of Tax Appeals, dismissing the appeal.

The question to be resolved is whether or not the City of Cebu can appeal from the decision of the Board of Assessment Appeals under Sec. 11 of Republic Act No. 1125. The pertinent portion of said provision states:

"SEC. 11. Who may appeal; effect of appeal.-Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling." (Italics supplied)

The City of Cebu constitutes a political body corporate created by a special charter (Commonwealth Act No. 58), endowed with the powers which pertain to a municipal corporation. As such, it possesses the capacity to sue and be sued. It is authorized to levy real estate taxes for its support. For instance, Section 75 of its charter provides, "One-fourth of all moneys realized from the real estate tax herein provided for shall be devoted exclusively to the

support of free public primary schools of the City, and to the erection and maintenance of suitable school buildings."

In the decision of the Board of Assessment Appeals of Cebu City exempting the lots in question from the payment of real property tax, no entity is more Adversely affected than the City of Cebu, for it stands to lose a yearly income equivalent to the realty tax: seven-eighths of one per centum on the assessed value of said lots.

This question before Us is not new, for in the recent case of the City of Manila and the City Assessor of Manila vs. The Board of Assessment Appeals, et al. (L-18784, April 30, 1964), We ruled that the City of Manila is a corporation adversely affected by the decision of the Board of Assessment Appeals. The city charters of Manila and Cebu have similar provisions in respect to benefits derived from the collection and levy of real property taxes. We find no reason to deviate from this ruling in the present case. Accordingly, We hold that the City of Cebu may validly appeal from the decision of the City Board of Assessment Appeals.

As to the personality of the Municipal Board to represent the City of Cebu in this suit, suffice it to say that Sec. 58 of Commonwealth Act No. 58 expressly vests in the Municipal Board the authority to appeal from the decision of the City Assessor to the Board of Assessment Appeals. This indicates legislative intent to lodge in the Municipal Board the right to represent the City in an appeal from an adverse decision of the Board of Assessment Appeals.

WHEREFORE, the decision appealed from is hereby set aside and the case remanded to the Court of Tax Appeals for further proceedings. No costs.

SO ORDERED.

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

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