

**MANILA ELECTRIC COMPANY, PLAINTIFF AND APPELLANT, VS.
CITY OF MANILA, DEFENDANT AND APPELLANT.***G.R. No. L-8694. April 28, 1956*

Ponente: BENGZON, J.

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This is a suit to recover the sum of ₱4,630 (with interest) which plaintiff paid to the City of Manila as inspection fees of its steam boilers, in accordance with the provisions of Chapter 117, Title 15, of the Revised Ordinances of said city. Such provisions, plaintiff alleged, have been repealed by subsequent legislation. It also alleged that the fees were grossly disproportionate to the services rendered.

The Manila court of first instance, after hearing the parties, rendered judgment dismissing the complaint, with costs. Judge Edilberto Barot made the following statement of the case:

"The facts are not in dispute. The plaintiff operates seven steam boilers of more than 100 horse power each for generating electricity in the City of Manila. As fees for the inspection of its boilers by inspectors of the Department of Labor under regulations promulgated by the Secretary of Labor pursuant to Commonwealth Act No. 104, as amended by Commonwealth Act No. 696, plaintiff paid the National Government P2,390 in 1946, P2,044.10 in 1947, P2,826.50 in 1948, and P3,326, in 1949. (Paragraph II, complaint; paragraph I, defendant's answer.) Furthermore, upon defendant's demand, plaintiff also paid, but under protest, to defendant city, the sum of P3,524 on January 24, 1949, and P1,506 on February 11, 1949, or a total of P4,630 as fees for inspection of the same boilers by the office of the City Engineer, pursuant to the provisions of Title 15, Chapter 117, of the Revised Ordinances. (Paragraphs IV and V, complaint; paragraphs II and III, defendant's answer.)"

The Manila Charter (1917) authorized the Municipal Board "to tax * * * steam boilers" and to regulate * * * steam engines and boilers" and provide for the inspection thereof and for a reasonable fee for such inspection".[1] Pursuant to this statute the ordinance in question was approved, and the payment demanded and received. However plaintiff insists that Commonwealth Act No. 104 (1936) as amended by Commonwealth Act No. 696 (1945) repealed the above portions of the Manila Charter, because these two enactment direct that "for inspection of boilers and pressure vessels, the Secretary of Labor * * * shall fix and collect reasonable inspection fees." (section S).[2]

His Honor perceived no repeal by implication, and believed there was no legislative intention to deprive the City of its power to tax and license steam boilers, pointing to the subsequent enactment in 1949 of the Revised Charter of the City of Manila (Republic Act No. 409) repeating the identical provisions, of the Administrative Code above quoted. There was no repeal, in our opinion too. In the first place the City's power to tax steam boilers could not have been affected by the Department of Labor's power to regulate or inspect them: one is taxation, the other regulation. In the second place, the power of inspection of the Secretary of Labor does not necessarily conflict with that of the City authorities, because the former has particular relation to the "safety of laborers and employees" (section 1) of industrial enterprises, whereas that of the City of Manila is not limited to such purpose,

but is related to the safety and welfare of the inhabitants of the City, particularly of the neighborhood wherein the boilers are located. (Smoke, noise, vibration, fire hazards etc.) Different purposes, are served by the two inspections. Anyway, this Court has already declared in *U. S. vs. Chan Tienco*, 25 Phil., 89:

"The mere fact that a municipality, for the purpose of protecting the health of its people, requires a permit from the president of the municipal board of health for the slaughtering¹ of large cattle, does not contravene nor is it repugnant to the provisions of the general law of the State requiring, for the purposes mentioned in the general law, a permit from the municipal treasurer for the slaughtering of large cattle. The purposes of the two laws are distinct. Many instances might be given showing that an inhabitant of a municipality, before he can do a particular thing or engage in a particular class of business, should secure two permits, one from the municipality and another from the State."

Mr. Justice Johnson who wrote the above quotation had previously had occasion to make a lengthy exposition, replete with precedents of the principle that a municipal regulation or prohibition of a certain line of activity may co-exist with national regulation or prohibition of the same. (*U. S. vs. Joson*, 26 Phil., 1) Because in the opinion of judicial authorities there is nothing "inherently obnoxious in the requirement that a person engaging in a business shall have two licenses, one issued by the state and another by a political subdivision or public corporation." (33 Am. Jur. 345).

In its last assignment of error the plaintiff, asserts that the inspection fees charged by the City are "excessive, unreasonable, and grossly disproportionate to the services rendered" by it. This point does not seem to be material. If the inspection fees had been demanded solely by virtue of the City's power to regulate and license steam boilers, it might be pertinent to inquire into the reasonability of the charges. However, the City has also authority to tax steam, boilers; and there is every indication that herein charges were collected under both the power to tax and the power to regulate. The name "fee" is not conclusive taxes are often times called fees.

"Where under undoubted charter power to tax is imposed for revenue alone, or for police regulation and revenue, the amount thereof is usually a matter for determination by the legislative branch of the municipal government. Ordinarily the courts will decline to interfere on the ground that the amount is oppressive or unreasonably large," (*McQuillen on Municipal Corporations*, 2nd. ed., Vol. 3, pp. 686-693).

The appealed judgment will therefore be affirmed with costs against appellant. So ordered.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Reyes, J. B. L. and Endencia, JJ., concur.

[1] Section 2444 Administrative Code (m) and (o).

[2] What is said about these two acts applies equally to Republic Act 867 invoked by plaintiff.

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