

JUAN LUNA SUBDIVISION, INC., PLAINTIFF AND APPELLEE, VS. M. SARMIENTO, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-3538. May 28, 1952

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal by the City Treasurer of the City of Manila from the following judgment handed down in the above-entitled causes:

"POR TODAS LAS CONSIDERACIONES, el Juzgado dicta sentencia ordenando: que el demandado Tesorero de la Ciudad de Manila pague a la demandante la cantidad de P2,210.52 sin intereses; que la demandada Philippine Trust Company pague a la demandante la suma de P105 sin intereses."

The Philippine Trust Company did not appeal.

The facts of the case, in so far as they are not in controversy, are these: The plaintiff was a corporation duly organized and existing under the laws of the Philippines with principal office in Manila. On December 29, 1941 it issued to the City Treasurer of Manila, and the City Treasurer accepted, Check No. 628334 for P2,210.52 drawn upon the Philippine Trust Company with which it had a credit balance of P4,940.17 on its account. This check was to be applied to plaintiff's land tax for the second semester of 1941 the exact amount of which was yet undetermined, and so it was entered in the ledger, Exhibit "F", as a deposit by the taxpayer. On February 20, 1942, presumably after the exact amount had been verified, which was P341.60, the balance of P1,868.92, covered by voucher No. 1487 of the City Treasurer's office, was noted in the ledger as a credit to the Juan Luna Subdivision, Inc.

Further than this, the records of the City Treasurer's office do not show what was done with the check. But the books of the Philippine Trust Company do reveal that it was deposited with the Philippine National Bank, the City Treasurer's sole depository, on December 29, 1941, and that it was presented by that Bank to the Philippine Trust Company on May 1, 1944 and was cashed by the drawee. Manuel F. Garcia, Assistant Treasurer of the Philippine Trust Company, testified that soon after his Bank was authorized in March, 1942, to reopen for business (it had been closed by order of the Japanese military authorities it received from the Philippine National Bank a bundle of checks, including appellee's check No. 628334, drawn upon the Philippine Trust Company before the Japanese occupation and held in abeyance by the Philippine National Bank pending resumption of operation by the Philippine Trust Company; that these checks, including the appellee's check, were accepted and the amounts thereof debited against the respective drawer's accounts; that with respect to check No. 628334, the operation was effected on May 1, 1944.

The City Treasurer refused after liberation to refund the plaintiff's deposit or apply it to such future taxes as might be found due, while the Philippine Trust Company was unwilling to reverse its debit entry against the Juan Luna Subdivision, Inc. It was upon this predicament that the Juan Luna Subdivision, Inc. brought this suit against the City Treasurer and the Philippine Trust Company as defendants in the alternative. The purpose of the action is to

determine which of the two defendants is liable for plaintiff's check. There is a separate cause of action which concerns the plaintiff and the City Treasurer alone.

On the main cause of action the burden of the City Treasurer's defense is that his office was not benefited by the check. He denies that the said check was cashed "or rather there was no proof that it was." It is pointed out that "Mr. Gibbs, testifying in open court, admitted that he had never received nor could he have received the cancelled check;" that "the court's finding that the sum of P2,210.52 was in fact and in truth added to the actual cash of the Treasurer of the City of Manila is based on conjectures and surmises without any support of pertinent and competent proof; that "the special ledger sheet of the City Treasurer * * * simply showed that some accounting transaction in the book value was done or accomplished but these accounting processes did not show that actual payment had been made (by the Philippine National Bank) to the City Treasurer, and that the City Treasurer had in effect received said amount represented by said check;" that "the burden of proving that the wctat check in question was in fact paid rests on the defendant Philippine Trust Company." It is further argued that "there is a lot of difference between the book value and the cash value of this check," that the acceptance by the City Treasurer and the issuance of Official Receipt No. 755402 on December 29, 1941 in favor of Juan Luna Subdivision, Inc. "did not simultaneously and automatically place in the hands of the City Treasurer the cash value represented by the said check in the amount of P2,210.52."

That the plaintiff's check was deposited by the City Treasurer with the Philippine National Bank, and the latter was paid the cash equivalent thereof by the Philippine Trust Company, admits of no doubt. The entries in the books of the latter bank are not in the least impugned. Whether the City Treasurer was paid that amount by the Philippine National Bank or given credit for it, the City Treasurer would neither admit nor deny. He said:

"A.

Not that I am not willing (to admit); I am willing, but I am not the right party to admit that the check was actually collected by the City of Manila from the Philippine Trust Company. The Philippine Trust Company never submitted any financial statement. To my knowledge, the City Treasurer of Manila has never been informed by the Philippine Trust Company or by the Philippine National Bank, which is the depository of the City of Manila, that that same check was collected by the City of Manila from the Philippine National Bank; by that I am not trying to say that the check was not actually collected by the City.

* * * * *

"Q.

This particular check in question pertains to the revenue account of the City of Manila, is that right?

"A.

Yes, sir.

"Q.

Ordinarily it would be deposited with the Philippine National Bank, is that right?

"A.

That is right.

"Q.

And the Philippine National Bank has not rendered you any account of its collections?

"A.

I would not say that; they probably gave us a statement, but as we have lost our records pertaining to the occupation and the pre-war years, I could not make a categorical statement."

From the fact that the Philippine National Bank was open throughout the Japanese occupation and the other facts heretofore admitted or not denied, it is to be presumed that the Philippine National Bank credited the City Treasurer with the amount of the check in question, and that the City Treasurer, taking ordinary care of his concerns, withdrew that amount. This is in accordance with the presumption that things happened according to the ordinary course of business and habits. The burden is on the City Treasurer, not on the plaintiff, to rebut these presumptions.

But the point is not material at all as far as the plaintiff is concerned. What became of the check or where the money went is a matter between the City Treasurer and the Philippine National Bank. The drawer of the check had funds on deposit to meet it; the City Treasurer accepted it and deposited it with the Philippine National Bank, and the Philippine National Bank collected the equivalent amount from the drawee Bank. In the light of these circumstances, the City Treasurer became the Philippine National Bank's creditor and the Juan Luna Subdivision, Inc. was released from liability on its check. If the City Treasurer did not collect his credit from the Philippine National Bank or otherwise make use of it, he alone was to blame and should suffer the consequences of his neglect. That the City Treasurer held the check merely in trust for the plaintiff does not alter the situation as far as this branch of the case goes.

The amount to be refunded to the plaintiff is the subject of another disagreement between the Juan Luna Subdivision, Inc. and the City Treasurer. This is the ground of the other cause of action heretofore referred to.

The plaintiff claims the whole amount of the check contending that taxes for the last semester of 1941 have been remitted by Commonwealth Act No. 703.

Section 1 of this Act, which was approved on November 1, 1945, provides:

"All land taxes and penalties due and payable for the years nineteen hundred and forty-two, nineteen hundred and forty-three, nineteen hundred and forty-four and fifty per cent of the tax due for nineteen hundred and forty-five, are hereby remitted. The land taxes and penalties due and payable for the second semester of the year nineteen hundred and forty-one shall also be remitted if the remaining fifty per cent corresponding to the year nineteen hundred and forty-five shall have been paid on or before December thirty-first, nineteen hundred and forty-five."

Does this provision cover taxes paid before its enactment, as the plaintiff maintains and the court below held, or does it refer, as the City Treasurer believes, only to taxes which were still unpaid?

There is no ambiguity in the language of the law. It says "taxes and penalties due and payable," the literal meaning of which is taxes owed or owing. (See Webster's New International Dictionary.) Note that the provision speaks of penalties, and note that penalties accrue only when taxes are not paid on time. The word "remit" underlined by the appellant does not help its theory, for to remit is to desist or refrain from exacting, inflicting, or enforcing something as well as to restore what has already been taken. (Webster's New International Dictionary.)

We do not see that literal interpretation of Commonwealth Act No. 703 runs counter and does violence to its spirit and intention, nor do we think that such interpretation would be "constitutionally bad" in that "it would unduly discriminate against taxpayers who had paid in favor of delinquent taxpayers."

The remission of taxes due and payable to the exclusion of taxes already collected does not constitute unfair discrimination. Each set of taxes is a class by itself, and the law would be open to attack as class legislation only if

all taxpayers belonging to one class were not treated alike. They are not.

As to the justice of the measure, the confinement of the condonation to delinquent taxes was not without good reason. The property owners who had paid their taxes before liberation and those who had not were not on the same footing on the need of material relief. It is true that the ravages and devastations wrought by war operations had rendered the bulk of the people destitute or impoverished and that it was this situation which prompted the passage of Commonwealth Act No. 703. But it is also true that the taxpayers who had been in arrears in their obligation would have to satisfy their liability with genuine currency, while the taxes paid during the occupation had been satisfied in Japanese military notes, many of them at a time when those notes were well-nigh worthless. To refund those taxes with the restored currency, even if the Government could afford to do so, would be unduly to enrich many of the payers at a greater expense to the people at large. What is more, the process of refunding would entail a tremendous amount of work and difficulties, what with the destruction of tax records and the great number of claimants who would take advantage of such grace.

It is said that the plaintiff's check was in the nature of a deposit, held in trust by the City Treasurer, and that, for this reason, plaintiff's taxes are to be regarded as still due and payable. This argument is well taken but only to the extent of P1,868.92. The amount of P341.60 as early as February 20, 1942, had been applied to the second half of plaintiff's 1941 tax and become part of the general funds of the city treasury. From that date that tax was legally and actually paid and settled.

The appealed judgment should, therefore, be modified so that the defendant City Treasurer shall refund to the plaintiff the sum of P1,868.92 instead of P2,210.52, without costs. It is so ordered.

Paras, C.J., Feria, Pablo, Bengzon, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

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