

ANTONIO HERAS, PLAINTIFF AND APPELLEE, VS. THE CITY TREASURER OF QUEZON CITY, DEFENDANT AND APPELLANT.

G.R. No. L-12565. October 31, 1960

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an action filed in the Court of First Instance of Rizal, for the recovery of the amount of P2,582.50 paid as license fees by the plaintiff to the defendant under protest. The case was submitted for decision upon the following stipulation of facts f

"Come now the parties, each represented by his respective counsel and to this Honorable Court respectfully submit the following stipulation of facts to wit, that:

"1. Plaintiff is of legal age, married and a resident of Quezon City; while the defendant is the City Treasurer of Quezon City, likewise of legal age, and may be served with summons at his office at the City Hall, Quezon City;

"2. Plaintiff is the owner and operator of the JD Transit and Taxi, a public utility duly licensed by the Public Service Commission and actually engaged in the business of transporting passengers to and from Manila, Quezon City, Pasay, and their environs and has its principal office at Aurora Blvd., Cubao, Quezon City;

"3. To operate the above-named concern, plaintiff has duly secured and paid the necessary license and fees imposed by the Revised Motor Vehicles Law and other laws;

"4. On June 29, 1956, the defendant City Treasurer of Quezon City, assessed against plaintiff the total amount of P2,582.50 as mayor's permit, municipal license fees and penalties for the period from June 16, 1956, to December 31, 1956, itemized as follows:

1. Mayor's permit:

Transportation with gasoline and crude oil storage

P20.00

2. Municipal license Fees:

a. Transportation by land Class A (214) units

750.00

b. Motor Vehicle Depository Class A (more than 2,160 square meters) ...

412.50

c. Storage of more than 5,000 gallons of gasoline

1,200.00

d. Storage of more than 2,000 gallons of crude oil

150.00

3. Penalty for late payment and for operating without permit and license.....

____50,00

P2,582.50

"5. On or about July 16, 1956 the plaintiff, through its counsel, Atty. Marcelino C. Ilao informed the defendant, by letter, that 'we are willing to pay such amount subtracting therewith the following municipal license fees, to wit (a) Transportation by land Class A (214) units—F750.00; b) Motor Vehicle Depository Class A (more than 2,160 square meters)—P412.50, the total of which amount to P1,162.50. We earnestly believe that the aforementioned municipal license fees should not be imposed on us on the ground that the law does not empower municipal corporations to impose municipal license fees upon enterprises operating transportation business.' A true copy of the aforementioned letter is hereto attached marked Annex 'A' and made an integral part of this Stipulation :

"6. On or about July 17f 1956, the defendant rejected the objection of the plaintiff in a letter addressed to the plaintiff, and reiterated his demand for the payment of the total amount of P2,582.50. A true copy of the letter aforementioned is hereto attached marked Annex 'B' and made an integral part of this Stipulation;

"7. On or about August 6, 1956 plaintiff paid the sum of P2,582.50, which payment was accompanied by a letter dated August 4, 1956, a true copy of which is attached hereto is Annex 'C' and made an integral part of this Stipulation;

"8. Plaintiff has demanded from defendant the refund of the total amount of P2,582.50, but despite repeated demands, defendant has failed and refused, and still refuses to refund the same;

"9. The storages of gasoline and crude oil, mentioned in paragraph 4 hereof, are used exclusively for the operation of the above-mentioned public utility concern owned and operated by the plaintiff;

"10. The ordinance No. 2673 of Quezon City, the validity of which is in question reads as follows (in so far as material to this case);

" 'Chapter XVI, Section 2-Fees-There shall be paid and collected for each license granted for storage of any explosive or combustible substance as herein provided, an annual license fee as follows;

* * * * *

Gasoline more than 5,000 but not more than 50,000 gallons P1,600.00 Other substances not mentioned herein * *
* over 1,000 gallons..200.00

""Chapter XXII, Sec. 3-Fees-There shall be paid for every license granted to pay operator of any public utility conveyance mentioned in Section 1 hereof, the following annual license fees in addition to the depository of said public utility vehicles; Class A-Public conveyance operating 100 or more vehicle f 1,000.00 Establishment or depositing any of the motor vehicles mentioned above according to space:

Sub-Section A-2

Class A with space of more than 2,160 square meters 550.00' "

From a judgment in favor of the plaintiff, ordering the refund sought and declaring Section 2, Chapter XVI, and Section 3, Chapter XXII, of Ordinance No. 2673 of Quezon City null and void, the defendant has appealed. It is contended that Section 12, Sub-sections (c) and (d), of the Revised Charter of Quezon City (Rep. Act No. 537) empowers the council to enact ordinances or pass resolutions, on the matter of taxing, fixing the license fees, and regulating the business of transportation companies and agencies, public vehicles, and storage and sale of gasoline and other combustible products. To quote:

"Sec. 12. General powers and duties of the council.-The City Council shall have power by ordinance or resolution:

"(c) To tax, fix the license fee, and regulate the business of the following: * * * transportation companies and agencies; * * * public vehicle * * * the storage and sale of * * * oil, gasoline, * * * or any of the products thereof and of all other highly combustible or explosive materials, * * *.

"(d) * * * to regulate the storage and sale of * * * oil, gasoline * * * or any of the products thereof and of all other highly combustible or explosive materials."

The provisions relied upon by the appellant reveal the indubitable purpose of authorizing impositions on business or transactions involving profit. Particularly, the use of the conjunction "and" between "storage" and "sale" in subsections (c) and (d) necessarily implies that the powers conferred on the city council is with reference to the storage and sale of gasoline or other combustible materials, not merely to the storage of gasoline and crude oil by the appellee for the latter's exclusive use and consumption. Section 2, Chapter XVI, of Ordinance No. 2673, being in contravention of that authority, is therefore null and void.

Nevertheless, the appellant insists that the council is empowered by the City Charter (Republic Act No. 537) "to tax, fix the license fee, and regulate the business of * * * establishments for the storage of highly combustible or explosive materials, * * * and other establishments likely to endanger the public safety or give rise to conflagration or explosions * * *." (Sec. 12, Par. [c]) There is likewise no merit in this observation, since the power thus granted refers only to the business of (Storing highly combustible or explosive materials, and the appellee is unquestionably not engaged in said business. It is noteworthy that Section 2, Chapter XVI, of Ordinance No. 2673 imposes a license fee upon storage, not upon the business of storage.

It is well-established that "subordinate entities like municipal councils can exercise the power of taxation only to the extent specified by law; and this power cannot be extended by strained implications." (See *Hercules Lumber Co. vs. Municipality of Zamboanga, et al.*, 55 Phil., 653, 655) ; and that "legislative powers in regard to taxes and licenses are not inherent in municipal corporations but must be granted by statute either expressly or by necessary implication," and "like other delegated powers, they are subject to strict construction." (See *Cu Unkieng vs. Patstone*, 42 Phil., 818.)

The other phase of this case deals with the license fees imposed on the transportation business of the appellee. This aspect of the case involves the question whether Sec. 12 (c) of the Revised Charter of Quezon City conflicts with and, hence has been, repealed by Section 17 of Republic Act No. 587 which amended subsection (b) of Section 70, of the Revised Motor Vehicles Law. The appellee sustains the affirmative and, we think, correctly. Section 17 of Republic Act No. 587 provides that "no other taxes or fees than those prescribed in this Act shall be imposed for the registration or operation, or on the owner of any motor vehicle, or for the exercise of the profession of chauffeur, by any municipal corporation, the provisions of any city charter to the contrary notwithstanding." Being a later enactment, it must be deemed to have repealed pro tanto Section 12 (c) of Republic Act No. 537, the Revised Charter of Quezon City. The business of transportation comprises simply the operation of motor vehicles defined in the Revised Motor Vehicles Law (Section 3 of Article 11) as including "all

vehicles using the public highways, if propelled by any power other than muscular power". To tax or impose a license fee on the transportation business of the appellee is therefore to tax or impose a license fee on the operation by the appellee of its vehicles, already exclusively covered by the Revised Motor Vehicles Law.

From the stipulation of facts it appears that, in the letter of the appellee dated July 16, 1956, he informed the appellant about his willingness to pay the amount (P2,582.50) demanded as fees, after deducting P750.00 charged as license fee for "Transportation by land Class A (214) units", and P412.00 for "Motor Vehicle Depository Class A (more than 2,160 square meters)," or a total of P1,162.50. The appellant having refused to accede to the proposal, the appellee in his communication of August 4, 1956, paid in check the amount of P2,582.50 under protest and stated that he was "contesting the legality of the imposition on the ground that municipal corporations are inhibited from imposing license fees for the operation of motor vehicle for hire and compensation." From what the appellee had thus said and done, we are constrained to hold that the payment under protest referred only to the two items of P750.00 and P412.50; and this is obvious not only from his first letter but also from the specific ground invoked in support of the protest, namely, that a municipal corporation has no power to impose license fees on the operation of motor vehicles for hire or compensation-meaning undoubtedly appellee's transportation business which of course includes the motor vehicle depository. It results that the other items covered by appellee's remittance of August 4, 1956, were voluntarily paid and may not be recovered (Sec. 63, Republic Act No. 537; see also *Visayan Electric Co., S. A. vs. City of Dumaguete, et al.*, 102 Phil., 566).

Wherefore, it being understood that the appellant is ordered to refund to the appellee the sum of P1,162.50 instead of 12,582.50, the judgment appealed from is affirmed, without pronouncement as to costs. So ordered.

Bengzon, Padilla, Bautista Angelo, Labrador, Conception, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Judgment affirmed.

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