

CITY OF BACOLOD, REPRESENTED BY MIGUEL REYNALDO, IN HIS CAPACITY AS CITY TREASURER, PETITIONER, VS. EDUARDO D. ENRIQUEZ, JUDGE OF THE THIRD BRANCH OF THE COURT OF FIRST INSTANCE...

G.R. No. L-27408. July 25, 1975

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/60a6a0710a5f/>

FERNANDO, J.:

It is quite apparent from even a casual reading of the pleadings filed in this certiorari and mandamus proceeding assailing an order of dismissal that the then respondent Judge was misled by the specious plea that respondent Monfort Motor Center Corporation is not the party liable under a Bacolod City Ordinance.[1] He should not have sustained the contention advanced by such entity that the action for the collection of the tax should be directed against its principal, the Columbian Motors Corporation. What must have escaped his attention was the undeniable fact that it was precisely that firm that obtained the permit, did business and made the sales in the City of Bacolod, not its principal. It therefore came within the coverage of the ordinance. Precisely as the admitted sales agent, it was engaged in a taxable enterprise. Had the then respondent Judge exercised greater care, he would not have granted a motion to dismiss. Certiorari and mandamus are thus the appropriate remedies.

It was set forth in the complaint that defendant, now private respondent Monfort Motor Center Corporation "is a business establishment operating under Permit No. 1877" of the City of Bacolod, "engaged in the business of Car Exchange, Commission Agents, Repair Shop and Spare Parts Dealer," with its office in such City and that during a period extending from July 1, 1964 to September 30, 1966, it made sales in the City of Bacolod in the total amount of P1,263,150.00 for which its tax liability under Section 1 of Ordinance No. 213 of the City is in the sum of P15,157.80. Then came this allegation: "That the payment of the aforesaid amount representing 1% percent sales tax is now overdue, and defendant has failed and refused, and still fails and refuses to pay the same, notwithstanding repeated demands from plaintiff".[2] The statement in the complaint that private respondent acted as agent of the Columbian Motors was made the basis of a motion to dismiss on the ground that it was not the real party in interest.[3] The lower court, apparently unmindful of the rather relevant and compelling facts that private respondent was an entity doing business in Bacolod and did make the sales in question, issued the order of dismissal now sought to be nullified in this certiorari proceeding: "Se trata de la mocion de sobreseimiento presentada por el abogado Sr. Romeo C. Lawam en representacion de los demandados por el fundamento de que la accion no se presenta contral la verdadera parte. De un examen de la demanda se ve que la ciudad demandante expresamente manifiesta que la demandada Monfort Motor Center Corporation es solamente mandataria de la Columbian Motors (Mercedez Benz). Bajo estas circunstancias, el Juzgado cree que la accion no ha sido interpuesta contra la parte interesada, por lo que, por el presente, se sobresee la demanda sin especial pronunciamiento en cuanto a las costas."[4]

As will be shown, respondent Judge acted rather hastily in acceding to the plea that the complaint be dismissed. As noted at the outset, the petition possesses merit.

1. It is of course undisputed that under the 1935 Constitution in force and in effect when the ordinance in question was passed, the controlling doctrine is that municipal corporations have no inherent power to tax, thus requiring that a grant thereof be shown.[5] It is no longer the case under the present Constitution with this explicit provision: "Each local government unit shall have the power to create its own sources of revenue and to levy taxes, subject to such provisions as may be provided by law." [6] Even with reference to the situation under the former Charter, there was recognition of the principle as far back as 1939 that broader authority in this field should be conferred on local government units.[7] Then came the Local Autonomy Act of 1959,[8] which increased even more the scope of the taxing competence of municipal corporations. Such legislation as noted in *Procter and Gamble vs. Municipality of Medina*[9] had been accorded by this Court a consistently liberal interpretation in accordance with the statutory purpose.[10] At any rate, where an ordinance imposing a sales tax is enacted by a chartered city, there can be no question raised as to the lack of power to tax.[11]

2. The indisputable character of the validity of Ordinance No. 213 of the City of Bacolod could furnish the explanation as to why private respondent corporation seized upon the defense of its not being taxable thereunder as it was a mere sales agent. So it pleaded in its motion to dismiss. It must have been agreeably surprised by the affirmative response of the lower court. It was like a shot in the dark that found its mark. Such a fortuitous circumstance, however, does not justify lending approval to the challenged order of dismissal. It is without legal basis. It is devoid of juristic support. The very title of the Bacolod City Ordinance makes clear that a tax at the rate of one per cent is imposed on the total gross sales or receipts of all merchandise or trade services of all persons, firms, corporations, associations or partnerships doing business in the City of Bacolod. Its first section clearly specifies the liability at such rate for merchandise or trade therein sold, bartered, exchanged, or distributed. As alleged in the complaint and therefore deemed admitted in the motion to dismiss, private respondent "is a business establishment operating under Permit No. 1877 . . ., engaged in the business of Car Exchange, Commission Agents, Repair Shop and Spare Parts Dealer, with its office in the City of Bacolod .. "[12] It was likewise alleged and deemed admitted that such corporation as agent of the "Columbian Motors (Mercedes Benz) has made sales in the City of Bacolod" in the sum specified.[13] It was doing business then as agent. That was the taxable activity carried on. It made the sales. It earned the income. The fact that it did so for its principal is of no account as far as the liability for taxes is concerned. For precisely the enterprise it was engaged in was that of an agency. Its place of operations was Bacolod. It is by virtue of the protection accorded it by such governmental unit that it was enabled to pursue its line of endeavor. It ought to have known that for such opportunity for which it is presumed it would be duly compensated, it must abide by the ordinances of the City, not only those enacted under the police power but also those passed by virtue of its authority to tax. Ordinary common sense, not to say business acumen, on the part of the management of private respondent, ought to have cautioned it to provide for the tax liability necessarily incurred in connection with the conduct of its business. That is a matter between it and its principal. That is no concern of the City of Bacolod. It is enough that a firm undeniably operating within its jurisdiction and making the sales had rendered itself liable under this particular ordinance. To accept the theory of private respondent in its effort to free itself from the payment of the sales tax would greatly burden and inconvenience local government units in collecting from business enterprises selling not products of its manufacture but acting merely as their agents. If in each and every case it is the principal, as likely as not without its office therein, that has to be sued, an unwarranted obstacle is placed in the path of prompt and efficient tax collection.

3. What must have misled the lower court was the apparent inability of counsel for the City of Bacolod to expose the fallacy inherent in the specious plea of private respondent. In the opposition to the motion to dismiss, instead of clarifying the situation by a discussion of the tax angle, the emphasis was on the commercial law aspect, which for the purpose of this litigation was less than illuminating. It is of course true that it could not suffice in law for

what was done by the lower court. Nonetheless what did transpire in this case should admonish City fiscals not only to exercise closer supervision over the legal efforts of their assistants but likewise to manifest a greater degree of alertness to the ingenuity displayed by private practitioners, who in the legitimate defense of their clients' rights, are expected to take advantage of every sign of weakness that militates against the efforts of their adversaries. There is need therefore for a meticulous scrutiny by government lawyers of their pleadings for possible defects or ambiguities and, if subjected to unwarranted objections as in this case, for the error of such criticism to be brought to light. If that were the norm followed, who knows whether the order of dismissal would have been issued.

WHEREFORE, the writ of certiorari is granted and the order of dismissal of the then Judge Eduardo D. Enriquez of December 3, 1966 nullified and set aside. The writ of mandamus is likewise granted and the Court of First Instance of Negros Occidental where this case required to proceed with this case in accordance with law and the Rules of Court.

Barredo, Antonio, Aquino, and Concepcion Jr., JJ., concur.

[1] Ordinance No. 213, Series of 1964, imposing municipal sales tax on all persons, firms, corporations, associations or partnerships doing business in the City of Bacolod.

[2] Complaint, Annex A to Petition.

[3] Cf. Motion to Dismiss, Annex B to Petition.

[4] Order, Annex D to Petition.

[5] Cf. Cuunjieng vs. Patstone, 42 Phil. 818 (1922); Hercules Lumber Co. vs. Zamboanga, 55 Phil. 653 (1931); Yeo-Loby vs. Zamboanga, 55 Phil. 656 (1931); People vs. Carreon, 65 Phil. 588 (1938); Phil. Transit Assn. vs. Treasurer of Manila, 83 Phil. 722 (1949); Icard vs. City Council of Baguio, 83 Phil. 870 (1949); Macondray & Co., Inc. vs. Sarmiento, 90 Phil. 709 (1952); Medina vs. City of Baguio, 91 Phil. 854 (1952); Asso. of Customs Brokers, Inc. vs. Municipal Board, 93 Phil. 107 (1953); Vega vs. Municipal Board of City of Iloilo, 94 Phil. 949 (1954); We Wa Yu vs. City of Lipa, 99 Phil. 975 (1956); Santos Lumber Co. vs. City of Cebu, 102 Phil. 870 (1958); Saldana vs. City of Iloilo, 104 Phil. 28 (1958); City of Iloilo vs. Villanueva, 105 Phil. 337 (1959); Heras vs. Treasurer of Quezon City, 109 Phil. 930 (1960); Morcoin Co., Ltd. vs. City of Manila, L-15351, Jan. 28, 1961, 1 SCRA 310; American Mail Line vs. City of Basilan, L-12647, May 31, 1961, 2 SCRA 309; Golden Ribbon Lumber Co. vs. City of Butuan, L-18534, Dec. 24, 1964, 12 SCRA 611; Aboitiz Shipping Corporation vs. City of Cebu, L-14526, March 31, 1965, 13 SCRA 449; Butuan Sawmill, Inc. vs. City of Butuan, L-21516, April 29, 1966, 16 SCRA 755; Luzon Surety Co., Inc. vs. City of Bacolod, L-23618, Aug. 31, 1970, 34 SCRA 509; Laoag Producers Cooperative Marketing Asso. vs. Municipality of Laoag, L-27498, Feb. 24, 1971, 37 SCRA 594.

[6] Article XI, Section 5 of the present Constitution.

[7] Commonwealth Act No. 472, entitled An Act to Revise the General Authority of Municipal Councils and Municipal District Councils to Levy Taxes.

[8] Republic Act No. 2264, entitled An Act Amending the Laws Governing Local Governments by Increasing their Autonomy.

[9] L-29125, January 31, 1972, 43 SCRA 130.

[10] Cf. Hodges vs. Municipal Board, L-18129, Jan. 31, 1963, 7 SCRA 143; Nin Bay Mining Co. vs.

Municipality of Roxas, L-20125, July 20, 1965, 14 SCRA 660; Hodges vs. Municipal Board, L-18276, Jan. 12, 1967, 19 SCRA 28; Ormoc Sugar Co., Inc. vs. Municipal Board, L-24322, July 21, 1967, 20 SCRA 739; Serafica vs. Treasurer of Ormoc City, L-24813, April 28, 1969, 27 SCRA 1108; De Leon vs. Municipality of Calumpit, L-26906, Nov. 28, 1969, 30 SCRA 531; Northern Philippines Tobacco Corp. vs. Mun. of Agoo, L-26446, Jan. 30, 1970, 31 SCRA 304 and Laoag Producers' Cooperative Marketing Asso. vs. Mun. of Laoag, L-27498, Feb. 24, 1971, 37 SCRA 594.

[11] Cf. City of Bacolod vs. Gruet, L-18290, Jan. 31, 1963, 7 SCRA 163; Yu King vs. City of Zamboanga, L-20406, Dec. 29, 1966, 18 SCRA 1241; C.N. Hodges vs. Municipal Board of Iloilo City, L-18276, Jan. 12, 1967, 19 SCRA 28; Ormoc Sugar Co. vs. Municipal Board of Ormoc City, L-24322, July 21, 1967, 20 SCRA 739.

[12] Complaint, par. 1.

[13] Ibid, par. 2.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.