

LUCAS V. UMALI, ET AL., PETITIONERS, LUCAS V. UMALI, BELEN R. TOLENTINO, NESTOR LAMTECSON AND RAYMUNDO O. MARTINEZ, PETITIONERS-APPELLANTS VS. THE CITY OF NAGA AND THE CITY TREA...*G.R. No. L-6815. December 29, 1954*

Ponente: PADILLA, J.

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In a special civil action brought in the Court of First Instance or Camarines Sur, the petitioners pray for a writ of preliminary injunction and after hearing for a writ of prohibition to enjoin the City of Naga and its Treasurer from enforcing an ordinance which raised the rentals of lots in the market of the City and of mandamus to compel the respondents to accept the sums of money consigned by them in Court and those that may be consigned for rentals that will become due, for such other remedy as may be just and equitable and for costs.

They claim and allege that the increase of rentals for lots occupied by them in the city market is excessive, highly oppressive, unreasonable and hence unconstitutional, the municipal board of the City of Naga having acted with grave abuse of discretion in passing the ordinance. They also claim that the ordinance was passed in violation of the city charter which provides that an ordinance must be passed ten days before it becomes effective. The ordinance in question was passed on 31 December 1948 and made effective the following day.

The respondents allege that the municipal board of the City of Naga under section 15, paragraph a, of Rep. Act. No. 305, known as the charter of the City of Naga, is empowered to enact the ordinance in question; that the rate of rentals per square meter is not excessive or unreasonable, taking into consideration that the lots are paved or laid with concrete and roofed with galvanized iron; that some of the petitioners paid the rentals for January 1949 and for that reason are stopped from questioning the legality or validity of Ordinance No. 4; that is not ultra vires because the municipal board of the City is empowered to levy and collect taxes for general and special purposes; that only the petitioners Lucas V. Umali, Belen R. Tolentino, Raymundo Martinez, Nestor Lamtecson and Senen Esteban refused to pay the rentals charged by the ordinance in question; that section 14 of Rep. Act No. 305 gives authority to the municipal board to make effective immediately any ordinance passed by it; and that this petition is not the adequate and proper remedy, because under section 14 of said Act they are afforded ample opportunity to question the reasonableness of the rentals by appealing to the Secretary of the Interior who has the power to disapprove in whole or in part any ordinance or resolution passed by the city municipal board. Upon these allegations they pray that the petition be dismissed.

After hearing, the Court of First Instance of Camarines Sur dismissed the petition, being of the opinion that the ordinance in question is not unreasonable or oppressive, and taxed the costs against the petitioners. From this judgment only four of the petitioners have appealed.

The ordinance in question is entitled "An ordinance imposing municipal license taxes upon persons, firms companies and corporations engaged in business and/or occupations," but section 9 thereof provides for a

schedule or rates of rentals for municipal land, residential or business, and for market premises on Igualdad, P. Prieto, General Luna and Zamora streets. So we may regard the new schedule adopted by the municipal board as rentals and not taxes.

The determination of what is to be paid for leasing municipal property lies within the power and discretion of the city municipal board and unless it is ultra vires or clearly unreasonable courts should not interfere with it. Counsel for the appellants states in his brief that the rentals charged by private owners around the market are for building and lot but in the market the city owns the lot and not the buildings which are owned by the petitioners. True, the buildings at the corner of General Luna and P. Prieto streets is owned by Ramon Diaz and occupied or leased by the United Hardware Store for which the latter pays a rental of P320 a month; the building on General Luna street where one Bobis runs his business establishment is owned by Ramon Diaz but it does not appear how much rental the tenant pays for it; and the building on General Luna street in front of the market is owned by Benito See Chung and leased by Faustino Rocha Lee Chan for which the tenant pays a rental of P250 a month. However, the structure (camarin) on Zamora street covering an area of 32 sq.m. only where Florentina Estrellez runs her sari-sari store is owned by the City of Naga and leased by her for P160 a month; the ground floor of an apartment (accesoria) on Zamora street belonging to one Espiritu leased by one Barlow and subleased by Jacinto Barte for which the latter pays rental of P100 a month covers an area of 9 sq.m. only; and for the lot on General Luna street on which the building owned by Yee Loy stands where he runs a grocery store and bakery, he pays P150 a month to Conchita Abella, the owner of the lot.

The monthly rental paid by Lucas V. Umali for a lot of 40 sq.m. was P51 and under the ordinance is P120; that paid by Belen R. Tolentino for a lot of 40 sq.m. was P51 and under the ordinance P120; that paid by Nestor Lamtecson for a lot of 40 sq.m. was P84.50 and under the ordinance P150; and that paid by Raymundo O. Martinez for a lot of 21 sq.m. was P25.20 and under the ordinance P63. Taking into consideration all the rentals paid for private lands around the market, we cannot say that the rate of rentals charged by the ordinance in question is unreasonable. The percentage that results by comparing previous and subsequent rentals is not a sound method for determining whether the increase is reasonable or unreasonable. The rental charged for premises leased around the market, the volume of business, the profits, the purchasing power of the currency and other minor factors, should be taken into consideration in determining the reasonableness of the rental charged for leased premises.

The fact that the ordinance in question was made effective the day following its passage or adoption does not make it invalid, because section 14 of the city charter authorizes the municipal board to fix the date of effectivity of an ordinance passed by it.

Failing to find any ground or reason for reversing the judgment appealed from, we affirm it, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J.B.L., JJ., concur.

Mr. Justice Montemayor took no part.

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