

PROCTER & GAMBLE TRADING COMPANY, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF MEDINA, MISAMIS ORIENTAL AND DOM. E. ABANIL, AS MUNICIPAL TREASURER OF MEDINA, DEFENDANTS AND ...

G.R. No. L-29125. January 31, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

Frustrated in their efforts to annul Ordinance No. 13 of the Municipality of Medina, Misamis Oriental, enacted on December 10, 1949 or at least to obtain a judicial declaration of their being outside the scope of its operation, Procter & Gamble Trading Company[1] and Union Import & Export Corporation[2] appealed the joint decision of the lower court on November 23, 1963 upholding its validity, dismissing their complaints and requiring them to pay the taxes due thereunder.[3] Such an ordinance was passed in pursuance of the broad statutory authority conferred under Commonwealth Act No. 472 approved on June 16, 1939, the precursor of the present law on the subject which carried the movement for local autonomy on fiscal matters still further.[4] In the absence of any allegation as to a constitutional infirmity, there being likewise no showing of any violation of a controlling statute, the challenged ordinance moreover on its face being clearly applicable to appellants, the lower court must be upheld.

The two cases resulting in the joint decision upholding the validity of such ordinance started with the complaints for its annulment filed on July 10, 1961 by appellant Procter & Gamble Trading Company and on July 19, 1961 by appellant Union Import & Export Corporation, with prayers for preliminary injunction to prevent the enforcement thereof by defendant Municipality of Medina against them. Its first section reads as follows: "This Ordinance shall be known as an ordinance levying taxes, charges, and fees on businesses, occupations, and privileges in the Municipality of Medina, Misamis Oriental." [5] Then came this relevant and specific provision sought to be annulled. "The following taxes, charges, and fees are imposed in the Municipality upon the businesses, occupations, and privileges, specific hereunder, and shall be collected in accordance with the following schedule of rates: * * *." [6] Under the schedule set forth in the above ordinance the yearly license tax was fixed at P4,000.00.

In the appealed decision, the lower court noted that the very witnesses of appellants Salvador Segura, the branch manager of Procter & Gamble Trading Company and Nicomedes Barcelona, the assistant branch manager of Union Import & Export Corporation in the Municipality of Medina, did admit that the former firm did make yearly purchases of copra in such municipality and surrounding places in an amount more than P1 million while the volume of purchases of copra in Medina by the latter corporation was likewise in the same sum, at times even reaching P2 million annually. It was further set forth in the above decision: "From defendants Exhibits II-A and II-E, the plaintiff Procter and Gamble was able to buy in and export copra from Medina the following kilos and amounts: For 1956, it bought and exported 13,936,341 kilos of copra valued at P3,000,671.42; for 1957, it bought and exported 13,337,831 kilos of copra valued at P3,739,948; for 1958, it bought and exported 10,920,560 kilos

of copra valued at P3,824,318; the plaintiff Union Import and Export Corporation was able to buy in and export from Medina the following kilos and amounts, according to Exhibits 11-B and 11-F; for 1956, it bought and exported 84,117.67 kilos of copra valued at P2,445,967.44; for 1957, it bought and exported 54,864.00 kilos copra valued at P1,658,563.44; for 1958, it bought in and exported from Medina 30,467.00 kilos of copra valued at P994,653.91."[7]

Reference was then made to the applicable law: "A municipal council or municipal district council shall have authority to impose municipal license taxes upon persons engaged in any occupation or business, or exercising privileges in the municipality or municipal district, by requiring them to secure licenses at rates fixed by the municipal council, or municipal district council and to collect fees and charges for services rendered by the municipality or municipal district and shall otherwise have power to levy for public local purposes, and for school purposes, including teachers' salaries, just uniform taxes other than percentages taxes and taxes on specified articles."[8] Thus it was not difficult for the lower court to reach this conclusion: "Undoubtedly, the plaintiffs are engaged in an occupation or business in the defendant's municipality. This fact is evidenced by the existence in Medina of plaintiff's branch offices or buying agencies, manned by their branch managers and clerical forces; their establishments like bodegas and equipments necessary in the buying, storing and shipping of copra; actual purchase of millions of kilos of copra in Medina and its environs in terms of millions of pesos every year and round the year; and direct exportation and shipment of this commodity by the plaintiffs to foreign countries thru foreign vessels that periodically and regularly call in defendant's municipal wharf at the instance of plaintiff. Certainly, these series of activities of plaintiffs constitute business in every essence of the word for it could not deny, as it was not denied, that the same is carried for profit or gain."[9] Ordinance No. 13, series of 1949 of defendant Municipality, was thus declared to be legal and valid as well as applicable to appellants Procter & Gamble Trading Company and Union Import & Export Corporation.

It is the correctness of the above decision that is now before us. Its conformity with the controlling law as interpreted by this Court is easy to discern. Our judgment then must be one of affirmance.

1. It is explicitly provided in the ordinance in question that defendant Municipality would collect taxes, charges and fees on businesses conducted therein. The undisputed finding of facts would show that appellants did carry on such business in defendant Municipality. It would be unrealistic to state that the activities carried on by them estimated to amount to more than a million pesos yearly cannot be so characterized. Defendant Municipality has the power to tax them, and through this challenged ordinance it did so. The conferment of such competence under Commonwealth Act No. 472 is in accordance with the well-settled principle that a public corporation may tax a business or profession conducted within its territorial jurisdiction.[10] There had been on the part of this Court a constant recognition of the validity of the ordinance enacted pursuant thereto.[11] Moreover, Republic Act No. 2264 has likewise been so uniformly interpreted.[12] There should be greater awareness on the part of firms and entities conducting business within a municipality that the exercise of such a privilege could be subject to the appropriate exercise of the prerogative to tax. Nor should there be any reluctance to comply with ordinances of that case if the purpose of the law to further strengthen local autonomy were to be realized.

2. Clearly then, in the light of such considerations, the first assignment of error that appellants are not merchants within the meaning of such ordinance is without merit, for as pointed out in the supplemental memorandum of appellee Municipality the taxes and charges under said ordinance are imposed on the businesses and occupations carried on in the Municipality of Medina. Nor are appellants anymore successful in resisting its operation by the allegation in the second assignment of error that what is therein imposed is an export tax expressly prohibited by law. The decisive case, Ormoc Sugarcane Planters Association, Inc. vs. Municipal Board of Ormoc City,[13] the opinion being penned by Justice Makalintal, leaves no doubt that only where there is a clear showing that what is

being taxed is an export to any foreign country would the amendatory provision of Republic Act No. 2264,[14] prohibiting it come into play. The ordinance in question is not susceptible to such a reproach. There is no legal justification then for the third assignment of error which would have this Court consider as inapplicable to the activities of appellants the challenged ordinance.

WHEREFORE , the lower court decision of November 23, 1963 is affirmed. With costs against appellants.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Appellant in L-29125.

[2] Appellant in L-29126.

[3] The appeals were duly filed with the Court of Appeals but on March 30, 1968, in a resolution of its Sixth Division, the cases were certified to this Court as they involved the legality of a tax and the penalty or surcharge imposed in resolution thereto. By Resolution of June 6, 1968 these cases were docketed in this Court.

[4] Local Autonomy Act, Republic Act No. 2264 (1959).

[5] Article I, Ordinance No. 13.

[6] Article II, Section 3, Ibid.

[7] Decision, Joint Record on Appeal, p. 191.

[8] Ibid, p. 193.

[9] Ibid, p. 194.

[10] Cf. Republic vs. Phil. Rabbit Bus Lines, Inc., L-26862, March 30, 1970, 32 SCRA 211.

[11] Cf. Shell Co. vs. Vano, 94 Phil 389 (1954); Standard-Vacuum Oil Co. vs. Antigua, 96 Phil. 909 (1955); Mun. Govt. of Pagsanjan vs. Reyes, 98 Phil. 654 (1956); Municipality of Cotabato vs. Santos, 105 Phil. 963 (1959) and Victorias Milling Co. vs. Mun. of Victorias, L-21183, Sept. 27, 1968, 25 SCRA 192. As to the previous provision in force, Sec. 2307 of the Administrative Code, reference may be made to De Linan vs. Municipal Council of Daet, 44 Phil. 792 (1923) and People vs. Carreon, 65 Phil. 588 (1938).

[12] 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-26447, Jan. 30, 1970, 31 SCRA 304 and Laoag Producers' Cooperative Marketing Asso. vs. Mun. of Laoag, L-27498, Feb. 24, 1971, 37 SCRA 594.

[13] L-23793, Feb. 23, 1968, 22 SCRA 736.

[14] Republic Act No. 4497 (1965).

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