

RODOLFO TIRONA, PETITIONER AND APPELLEE, VS. M. CUDIAMAT, AS CITY TREASURER OF MANILA, RESPONDENT AND APPELLANT.

G. R. No. L-21235. May 31, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The City Treasurer of Manila has appealed directly to this Court a decision of the Court of First Instance of Rizal (Pasay City Branch), in its Civil Case No. 2288-P, requiring said City Treasurer to accept appellee R. O. Tirona's backpay certificate in payment of his real estate taxes for 1962 amounting to P1,887.90.

The facts are not disputed. They, and the issues litigated, are clearly stated in the appealed decision, as follows:

"This is a petition for mandamus praying that the respondent. M. Cudiamat, as City Treasurer of Manila, be compelled to accept petitioner's backpay certificate in payment of his realty taxes for the year 1962, effective as of the date it was presented for payment, i.e., June 28, 1962. The case was submitted on an agreed stipulation of facts with the pertinent documents as annexes.

It appears that the petitioner is the original holder of a backpay certificate (Acknowledgment No. 8506) issued under Republic Ad No. 897. On June 28, 1962, he offered to respondent his backpay certificate in payment of his realty taxes for the 1962 mi the amount of P1,887.90.

The respondent, however, did not accept petitioner's backpay certificate pursuant to the directive issued by the City Mayor dated December 19, 1958 (Exhibit I), because: (a) the City of Manila received from taxpayers certificates of indebtedness and negotiable certificates of indebtedness during the period from 1958 to August & 1962, in the total amount of P2,103,001.32, which certificates had been tendered to the National Treasurer for redemption but same have not as yet been redeemed (Exhibit 2); (b) from 1954 to 1958 & respondent's office had accepted in payment of real estate taxes, applications for the issuance of certificates of indebtedness (Backpay Form No. 3) which were forwarded to the Backpay Division Bureau of the Treasury for the issuance of the corresponding certificates of indebtedness in favor of the City of Manila but which, up to this date, have not boon issued, in the total amount of P1,725,115.72 (Exhibit 3); (c) the grand total of "real estate tax in payment of which applications for the issuance of certificates of indebtedness were received and placed on file" by respondent's office without accepting them due to the aforesaid order of the City Mayor for the period from December, 1958, to June, 1962, is P124,408.20 (Exhibit 4).

Restating the action, respondent in his special and affirmative defenses alleges that (1) the petition states no cause of action '* * * the obligation of petitioner, not having subsided on the date of the approval of Act No. 897, that is, June 20, 1953, the acceptance or non-acceptance of the certificates of indebtedness becomes discretionary on respondent's part.' (2) Even assuming otherwise, mandamus does not lie since under the circumstances he is mot in duty bound to accept the backpay certificate. (3) To compel him to accept backpay certificates in payment of taxes under these circumstances would constitute impairment of obligations of contract." (pp. 1 and 2, Decision)

The case having been decided adversely to him, the City Treasurer of Manila appealed to this Court on points of

tow, insisting on the defenses already interposed by him to the court below.

It is first urged by the appellant City Treasurer that under section 2 of Republic Act 304, as amended, backpay certificates are admissible in payment of obligations subsisting on the date of approval of the said Acts, i.e. on June 20, 1953, at the latest, being that of the approval of latest amendatory law, Republic Act No. 897. This stand is belied by the very text of the law:

"SEC. 2. * * * *

PROVIDED, That upon application and subject to such rules and regulations as may be approved by the Secretary of Finance a certificate of indebtedness may issue by the Treasurer of the Philippines covering the whole or part of the total salaries or wages the right to which has been duly acknowledged and recognized, provided that the face value of such certificate of indebtedness shall not exceed the amount wit that the applicant may need for the payment of (1) obligations subsisting at the time of the approval of this amendatory which the applicant may directly be liable to the government or to any of its branches or instrumentalities, * * *: (2) his taxes; (3) government hospital bills of the applicant; (4) lands purchased or leased or to be purchased or leased by him from the public domain; and (5) any amount received by the applicant as gratuity or pension which he has to refund to the Government or to any of its branches or instrumentalities; * * *."

It will be seen that while the applicability of the backpay certificate to the payment of holder's obligations to the government or any of its branches or instrumentalities is limited to those subsisting at the time of the approval of the amendatory act (No. 897), the statute also declares the applicability of the backpay certificates to the payment by the holder of "(2) his taxes; (3) government hospital bills of the applicant; * * * etc.," without any limitation in point of time. As remarked by the court below, had it been intended to apply to the taxes the same limitation as to time imposed upon the other obligations, the limitation would have been repeated or stated after the expression "his taxes."

Appellant also calls attention to the fact that section 5 of Republic Act 897 only refers to the application of backpay rights of members of the Philippine Army, recognized guerilla forces, and officers of the Philippine Scouts to the payment of obligations subsisting on the date of the approval of this Act, "notwithstanding any provision of Republic Act No. 304, as amended."

"SEC. 5. Notwithstanding any provision of Republic Act Three Hundred Four, as amended:—(1) the face value of any certificate of indebtedness which may be issued upon application member of the Philippine Army, a recognized guerrilla or an of the Philippine Scouts who may be entitled thereto, for the payment of any of his obligations to the Government or to any of its branches or instrumentalities, or the corporations owned or controlled by the Government, or to any citizen of the Philippines, or to any association or corporation, organized under the laws of the Philippines, who may willing to accept the same for such settlement, shall not exceed, the amount of such obligation subsisting on the date of approval of this Act; (2) the time limit for the filing of application by or for members of the Philippine Army, recognized guerilla forces and Philippine Scouts herein mentioned shall be one year from the date of approval of this amendatory Act."

The reason for the exceptional provision in the foregoing section is readily apparent: since it was Republic Act 897 that extended to members of the armed and guerilla forces the benefits of backpay, it would have been unjust to enforce upon them the limitations as to time, as contained in the original Republic Act 304, approved years before. It did not mean that the armed and guerrilla forces' backpay would not apply to the payment of taxes or hospital bills, for there is no discernible reason why members of said forces should be discriminated against in comparison to other backpay right holders. If other holders of backpay certificates can apply the value thereof to the payment of their taxes and government hospital bills, justice and equity demand that military holders should enjoy the same privilege. The lower court, therefore, correctly held that section 5, above-quoted, does not restrict

the application of backpay certificates for the purposes enumerated in section 2 of Republic Act 304.

The appellant next advances the theory that under section 3 of the Act the backpay is made an obligation of the office employing the holder of backpay rights, and such office, under section 4, must reimburse the National government for the corresponding annual contributions to the sinking fund established for their redemption; whence, appellant reasons out, the duty to accept backpay certificates corresponds to the offices that must assume ultimate payment thereof. Since appellee is a member of the Armed Forces, appellant concludes that acceptance of his backpay certificate is not a duty of the City of Manila of the Armed Forces of the Philippines. This is patently a strained interpretation of the law. The duty to contribute to the sinking fund for the redemption of the backpay certificates is separate and distinct from the obligation to accept the certificates for the discharge of the obligations, taxes, hospital bills, etc., of the holder. The acceptance, where proper, of the certificates merely transfers the pro tanto credit of the backpay holder to the accepting office, or entity, and subrogates the latter in the right to demand ultimate reimbursement at maturity.

It may be true that, instead of receiving money in concept of taxes, the effect is to compel the City of Manila to receive assignments of credit against the National Government, in the form of backpay certificates. Whatever unfavorable effect on the city finances may result from the application of the law must be deemed to have been intended by the legislature, which, after all, has full control over cities and municipalities (*Manila vs. MERALCO*, 36 Phil. 89, 98-99).

Finally, the proposition that appellant City Treasurer was only acting under the directive of the City Mayor is certainly unacceptable as a defense. The City Mayor can not validly countermand the performance of a duty enjoined by law.

The decision appealed from is affirmed, with costs against appellant.

Bengzon, C. J., Bautista Angelo, Barrera, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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