

**NORTHERN PHILIPPINES TOBACCO CORPORATION,
PETITIONER-APPELLANT, VS. THE MUNICIPALITY OF AGOO,
PROVINCE OF LA UNION, ET AL., RESPONDENTS-APPELLEES.**

G.R. No. L-26447. January 30, 1970

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

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

Appeal from the decision of the Court of First Instance of Manila (in Civil Case No. 58916) up-holding the validity of an ordinance passed by the Municipal Council of Agoo, La Union, imposing municipal license fee upon redrying plants operating in the municipality at a rate depending on the quantity of Virginia leaf tobacco redried in said plants.

The facts of this case are simple and undisputed. On 2 June 1964, the Municipal Council of Agoo, La Union, enacted Ordinance No. 11, series of 1964,[1] which provides the following:

"Section 1. That all redrying plants established, maintained and/or operated within the municipality of Agoo, La Union, shall pay Municipal License Tax, as indicated hereunder, payable quarterly, graduated as follows:

1. Redrying Plants, having a total or maximum annually redried Virginia leaf tobacco of not more than 400,000 kilos.

P 4,000.00 per annum

2. From 400,001 to 800,000 kilos.

8,000.00 per annum

3. From 800,001 to 1,200,000 kilos.

12,000.00 per annum

4. From 1,200,001 to 1,400,000

kilos.

14,000.00 per annum

5. From 1,400,001 to 1,600,000 kilos.

16,000.00 per annum

and so on”

The Northern Philippines Tobacco Corporation, owner of one of the two redrying plants presently operating in the municipality of Agoo, and directly affected by the above-mentioned ordinance, petitioned the Court of First Instance of Manila for the declaration of its nullity, contending that the said municipal legislation was unauthorized, unjust, excessive, oppressive and confiscatory and, in its application, was discriminatory to constitute a denial of the petitioner's right to equal protection of the laws.

After due hearing, the court rendered judgment, sustaining the validity of the disputed ordinance. Petitioner thus interposed the present appeal on the same grounds upon which the petition in the court below was based: (1) that the ordinance was enacted by the municipal council ultra vires (2) that the increase of the license tax, originally imposed by Ordinance No. 1, series of 1960, by some 300% was unjust, excessive, oppressive and confiscatory; and (3) that as applied and administered by the respondent municipality, the questioned ordinance is discriminatory against petitioner-appellant, thereby constituting a denial of its right to the constitutional guarantee of equal protection of the laws.

In assailing the authority of the Municipal Council of Agoo to impose the municipal license tax in this case, appellant claims that what is being levied upon is the "service of redrying" tobacco that it was rendering; and since what would then be properly imposable is only a license fee, not license tax, it is contended that the collection of tax at the rate specified in the ordinance would be excessive and unjust. In short, appellant's theory is that the ordinance in question was enacted in the exercise of the municipality's power to regulate businesses or occupations within its jurisdiction, and consequently, the rate should be a reasonable amount sufficient to cover only the expenses for the regulation, inspection and supervision of the licensed undertaking. The argument is based on a wrong premise. For by express declaration of the Municipal Council,[2] it was proclaimed that the ordinance was passed to raise revenue, to enable the carrying on of the (municipal) administration's program "to uplift the well-being of the general public, specially those of the rural area". But even without such pronouncement, there can be no mistake about the nature of the power the council had exercised. The ordinance provided no police inspection, supervision or regulation of appellant's business; it set no standard or rules of action for appellant to observe in the conduct of its activities.[3] Instead, the ordinance was titled as one imposing a municipal license tax "on all tobacco redrying plants" established and operated within the municipality; and its Section 1 prescribed that "all redrying plants established maintained and/or operated within the municipality of Agoo, La Union, shall pay municipal license tax" as therein indicated. Clearly, what is being taxed therein is not rendering by appellant of redrying services to its customers or clients, but the enjoyment of the privilege to operate and maintain the tobacco redrying business in the municipality. It is, therefore, a tax on the occupation, on the conducting of business itself, an impost that is perfectly within the authority of a municipal (or city) council to create.[4]

Republic Act No. 2264 (known as the Local Autonomy Act) in its section 2, expressly provides that subject to specified exceptions not here applicable, "all chartered cities, municipalities and municipal districts shall have authority to impose municipal license taxes or fees, upon persons engaged in any occupation or business" and it is

undeniable that redrying of tobacco is as much an occupation or business as manufacturing or shoe making.

The circumstance that the rate of tax payable under the ordinance is made to some extent dependent on the minimum and maximum quantity of tobacco redried per quarter, does not transform said tax into a percentage or sales or income tax and does not bring the case out of the council's authorized sphere of action. It may be noted that, as framed in the ordinance, the volume of business is merely taken into account in classifying the taxpayer's business according to its size or extent of operations, for the purpose of imposing the fixed graduated tax it has to pay; and that there is no set ratio between the tax and the amount of tobacco redried.[5]

It is even more far-fetched to say that the tax is an exaction on sales or income. As already stated, the imposition here is a levy on the enjoyment of the privilege to engage in the business of redrying tobacco, not on the operator's making of sales or its receipt of income from the business.

Admittedly, the license tax being imposed on the business of redrying tobacco is not new. As the title of the ordinance indicates, it is just an amendment to another ordinance existing and apparently in force since 1960. Evidently, the main objection of appellant against Ordinance No. 11 is in the increase of the rates, from one-fourth centavo (P.0025) for every kilo of tobacco redried in the plant as provided in the amended ordinance, to one centavo (P.01) per kilo, an increase by 300 % which, according to appellant, is excessive, unjust, confiscatory and discriminatory.

We find nothing in the record, however, to support such charge. Appellant has failed to present proof of the existing municipal conditions and the nature of its business, as well as other factors that would have been relevant to the issue of the arbitrariness or unreasonableness of the questioned rates. An increase in the rate of tax alone would not support the claim that it is oppressive, unjust and confiscatory; municipal corporations are allowed much discretion in determining the rates imposable license fees, even in cases of purely police power-measures.⁷

As regard the claim that the ordinance in its operation is unjust and discriminatory, we find that it is based on its being strictly enforced against the appellant by the respondent municipal officials, while at the same time treating with leniency its competitor, Central Cooperative Exchange, Inc., the only other redrying plant in the municipality. It can be said in this respect that the lower court has aptly observed that if the complained inequality in the end of the ordinance by the responsible local officials were true, that would not work against the validity of the measure. Appellant's recourse, if at all, lies in another action; certainly not in an attack on the legality of the duly enacted municipal legislation.

FOR THE FOREGOING CONSIDERATIONS, the decision appealed from is hereby affirmed, with costs against the appellant.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Amending Ordinance No. 1, series of 1960.

[2] pr. 8-9, Record on Appeal.

[3] Victorias Milling Co. vs. Municipality of Victorias, L-21183, Sept. 27, 1968, 25 SCRA 192.

[4] cf. Golden Ribbon Lumber Co. vs. City of Butuan, L-18534, Dec. 24, 1964, 12 SCRA 611; Villanueva vs. City of Iloilo, *supra*.

[5] City of Manila vs. Inter-island Gas Service, 99 Phil. 847.

6 Ormoc Sugar Co. vs. Municipal Board of Ormoc, L-24322, July 21, 1967.

7 Ermita Malate Hotel & Motel Operators Association vs. Hon. City Mayor, L-24693. July 3, 1967, 20 SCRA 849.

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