

THE MUNICIPAL GOVERNMENT OF PAGSANJAN, LAGUNA PLAINTIFF AND APPELLEE, VS. ANGEL E. REYES, DEFENDANT AND APPELLANT.

G.R. No. L-8195. March 23, 1956

Ponente: PARAS, C.J.

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PARAS, C.J.:

The defendant-appellant, Angel E. Reyes, was the owner of a dessicated coconut factory located in Pagsanjan, Laguna, which operated from March, 1948 to July 20, 1950. At the time the appellant commenced his business the license tax was P600 per annum. On March 14, 1948, the municipal council of Pagsanjan passed Ordinance No. 2, series of 1948, increasing said tax to P3,000 per annum, which was approved by the Provincial Board of Laguna on April 5, 1948 and by the Secretary of Finance on February 22, 1949. The appellant had paid P150 and made a deposit of P600 upon account of his license taxes. Computing the tax at the rate of P3,000 per annum, the plaintiff-appellee, the Municipal Government of Pagsanjan, demanded from the appellant the total sum of P4,500 which the latter refused to pay, contending not only that the appellee had. no power to enact Ordinance No. 2 which was also oppressive, unjust and unreasonable, but that, even if valid, it became effective in the year succeeding the approval by the Secretary of Finance. The appellee was therefore constrained to file in the Court of First Instance of Laguna a complaint against the appellant for the recovery of P4,500, plus the sum of P500 as damages. After answer by the appellant and due trial, the court rendered a decision holding that the increased license tax prescribed in Ordinance No. 2 became effective on January 1, 1949, the year following its passage in 1948, and sentencing the appellant to pay the appellee P4,140, representing delinquent taxes with a surcharge of twenty per cent. From this decision defendant Angel E. Reyes has appealed.

The ordinance in question was enacted in pursuance of Commonwealth Act No. 472. Previously the law on the matter was Act No. 3422, section 2 of which provided that the municipal council had no authority, without the approval of the Secretary of the Interior and the Secretary of Finance, to impose fixed municipal license taxes on business not excepted in said Act or otherwise covered by the provisions of said section and subject to the fixed annual tax imposed in section fourteen hundred and fifty-seven of the Administrative Code of 1917, as amended; if the tax on each business was in excess of P25 per annum. Under section 4 of Commonwealth Act No. 472, the approval of the Secretary of Finance shall be secured "2". Whenever the rate of fixed municipal license taxes on business not excepted in this Act or otherwise covered by the preceding paragraph and subject to the fixed annual tax imposed in section one hundred eighty-two of the National Internal Revenue Law, is in excess of fifty pesos per annum; and 3. Whenever the municipal license tax on any business, occupation, or privilege the rate of which is not limited. above increased by more than fifty per centum." It is noteworthy that under the latter Act the appellee was empowered to enact the ordinance in question but "the approval of the Secretary of Finance shall be secured." On the other hand, under the former law, Act No. 3422, a municipal council had no authority, without the approval of the Secretary of Interior and the Secretary of Finance, to impose a license tax of the kind imposed by ordinance in question. In our opinion the difference is more formal than substantial, because the fact remains

that both under Commonwealth Act No. 472 and under Act No. 3422, the specific approval of the Secretary of Finance is required. The provision is not merely one which permits or assumes the validity of an ordinance until disapproved by the Secretary of Finance. The evident purpose of the law is to forestall the imposition of unreasonable and oppressive license taxes on business; in the language of our decision in Santos vs. Aquino, 94 Phil., 65 "to forestall' abuse of power by the municipal councils."

It is interesting to note that the Department of Finance promulgated Provincial Circular No. 12, enjoining all municipal treasurers not to enforce the collection of a tax imposed by an ordinance which requires the approval of the Secretary of Finance, without said approval; and this circular was so applied and interpreted in a decision of the Secretary of Finance rendered on February 10, 1949, the dispositive part of which reads as follows:

"The records of this Department show that the rates of municipal license taxes fixed in the aforesaid ordinance which require the approval of this Department, were approved under our letter dated September 22, 1947". It is, therefore, evident that the collection of the increase rate made by the municipal treasurer before the said date is illegal and contrary to existing instruction. In view thereof and it appearing that the payments were made under protest, the provincial treasurer is hereby instructed to take immediate steps or refund to the taxpayers the amounts which they paid in excess of P50.00 before September 22, 1947."

This Court already held that the approval of the Secretary of the Interior and the Secretary of Finance required in section 2 of Act No. 8422, was a condition sine qua non for the validity of an ordinance passed under said Act. (Li Seng Giap & Co., et al. vs. Municipality of Daet, 54 Phil., 625; Smith Bell & Co. vs. Municipality of Zamboanga, 55 Phil., 467.) Our conclusion is that the ordinance in question became valid only after it was approved by the Secretary of Finance on February 22, 1949. To be valid however is one thing, and to be effective and enforceable is another thing. Section 2230 of the Administrative Code provides that an ordinance or resolution shall take effect on the tenth day after its passage. This is the general rule; but section 2309 of said Code provides that "a municipal license tax already in existence shall be subject to change only by ordinance enacted prior to the fourteenth of December of any year for the next succeeding year; but an entirely new tax may' be created by an ordinance enacted during the current year, effective at the beginning of any succeeding quarter. * * *" Since ordinance No. 2, imposes a tax on dessicated coconut business, and merely changes the rate already in existence by increasing it to P3,000 per annum, said ordinance become effective and enforceable on January 1, 1950, the year following February 22, 1949, when it was approved by the Secretary of Finance.

Appellee's contention that the accrual of the license tax should be distinguished from its collection which may be made only after the date of the approval by the Secretary of Finance is untenable if not absurd. The theory is at war with the general rule against retroactive application of statutes, besides being flagrantly unbusinesslike and speculative; for under the law there is no definite period within which approval by the Secretary of Finance should be obtained, and under the decision in Santos vs. Aquino, supra, the Department of Finance not only may approve but also may disapprove or reduce the tax imposed.

Upon the other hand, appellant's contention that the ordinance in question is null and void for being oppressive, unjust and unreasonable, deserves no serious consideration. He argued in the lower court that the annual license tax of P3,000 constituted so heavy a burden that his business had to be closed. In the stipulation of facts submitted by the parties, no reference whatsoever was made to said contention. Much less was any evidence presented on the point.

It being understood that Ordinance No. 2, series of 1948, became effective and enforceable only on January 1, 1950, and that defendant-appellee all the unpaid taxes on his business from March, 1948 to July 30, 1950, plus the corresponding surcharge deducting what was already paid or deposited by the appellant upon account of said taxes, the appealed decision is in other respects affirmed. So ordered without costs.

Bengzon, Padilla, Reyes, A. Bautista Angelo, Labrador, Reyes, J.B.L. and Endencia, JJ., concur.

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