

ASSOCIATION OF CUSTOMS BROKERS, INC. AND G. MANLAPIT, INC., PETITIONERS AND APPELLANTS, VS. THE MUNICIPAL BOARD, THE CITY TREASURER, THE CITY ASSESSOR AND THE CITY MAYOR, ALL OF...

G. R. No. L-4376. May 22, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for declaratory relief to test the validity of Ordinance No. 3379 passed by the Municipal Board of the City of Manila on March 24, 1950.

The Association of Customs Brokers, Inc., which is composed of all brokers and public service operators of motor vehicles in the City of Manila, and G. Manlapit, Inc., a member of said association, also a public service operator of trucks in said City, challenge the validity of said ordinance on the ground that (1) while it levies a so-called property tax it is in reality a license tax which is beyond the power of the Municipal Board of the City of Manila; (2) said ordinance offends against the rule of uniformity of taxation; and (3) it constitutes double taxation.

The respondents, represented by the city fiscal, contend on their part that the challenged ordinance imposes a property tax which is within the power of the City of Manila to impose under its Revised Charter [Section 18 (p) of Republic Act No. 409], and that the tax in question does not violate the rule of uniformity of taxation, nor does it constitute double taxation.

The issues having been joined, the Court of First Instance of Manila sustained the validity of the ordinance and dismissed the petition. Hence this appeal.

The disputed ordinance was passed by the Municipal Board of the City of Manila under the authority conferred by section 18 (p) of Republic Act No. 409. Said section confers upon the municipal board the power "to tax motor and other vehicles operating within the City of Manila the provisions of any existing law to the contrary notwithstanding." It is contended that this power is broad enough to confer upon the City of Manila the power to enact an ordinance imposing a property tax on motor vehicles operating within the city limits.

In deciding the issue before us it is necessary to bear in mind the pertinent provisions of the Motor Vehicle Law, as amended, (Act No. 3992) which has a bearing on the power of a municipal corporation to impose tax on motor vehicles operating on any highway in the Philippines. The pertinent provisions are contained in section 70 (b) which provides in part:

"No further fees than those fixed in this Act shall be exacted or demanded by any public highway, bridge or ferry, or for the exercise of the profession of chauffeur, or for the operation of any motor vehicle by the owner thereof: Provided, however, that nothing in this Act shall be construed to exempt any motor vehicle from the payment of any lawful and equitable insular, local or municipal property tax imposed thereupon. * * *"

Note that under the above section no fees may be exacted or demanded for the operation of any motor vehicle

other than those therein provided, the only exception being that which refers to property tax which may be imposed by a municipal corporation. This provision is all-inclusive in the sense that it applies to all motor vehicles. In this sense, this provision should be construed as limiting the broad grant of power conferred upon the City of Manila by its Charter to impose taxes. When section 18 of said Charter provides that the City of Manila can impose a tax on motor vehicles operating within its limits, it can only refer to property tax as a different interpretation would make it repugnant to the Motor Vehicle Law.

Coming now to the ordinance in question, we find that its title refers to it as "An Ordinance Levying a Property Tax on All Motor Vehicles Operating Within the City of Manila", and that in its section 1 it provides that the tax should be 1 per cent ad valorem per annum. It also provides that the proceeds of the tax "shall accrue to the Streets and Bridges Funds of the City and shall be expended exclusively for the repair, maintenance and improvement of its streets and bridges." Considering the wording used in the ordinance in the light of the purpose for which the tax is created, can we consider the tax thus imposed as property tax, as claimed by respondents?

While as a rule an ad valorem tax is a property tax, and this rule is supported by some authorities, the rule should not be taken in its absolute sense if the nature and purpose of the tax as gathered from the context show that it is in effect an excise or a license tax. Thus, it has been held that "If a tax is in its nature an excise, it does not become a property tax because it is proportioned in amount to the value of the property used in connection with the occupation, privilege or act which is taxed. Every excise necessarily must finally fall upon and be paid by property and so may be indirectly a tax upon property; but if it is really imposed upon the performance of an act, enjoyment of a privilege, or the engaging in an occupation, it will be considered an excise." (26 R. C. L., 35-36.) It has also been held that

"The character of a tax as a property tax or a license or occupation tax must be determined by its incidents, and from the natural and legal effect of the language employed in the act or ordinance, and not by the name by which it is described, or by the mode adopted in fixing its amount. If it is clearly a property tax, it will be so regarded, even though nominally and in form it is a license or occupation tax; and, on the other hand, if the tax is levied upon persons on account of their business, it will be construed as a license or occupation tax, even though it is graduated according to the property used in such business, or on the gross receipts of the business." (37 C. J., 172.)

The ordinance in question falls under the foregoing rules. While it refers to property tax and it is fixed ad valorem yet we cannot reject the idea that it is merely levied on motor vehicles operating within the City of Manila with the main purpose of raising funds to be expended exclusively for the repair, maintenance and improvement of the streets and bridges in said city. This is precisely what the Motor Vehicle Law (Act No. 3992) intends to prevent, for the reason that, under said Act, municipal corporations already participate in the distribution of the proceeds that are raised for the same purpose of repairing, maintaining and improving bridges and public highways (section 73 of the Motor Vehicle Law). This prohibition is intended to prevent duplication in the imposition of fees for the same purpose. It is for this reason that we believe that the ordinance in question merely imposes a license fee although under the cloak of an ad valorem tax to circumvent the prohibition above adverted to.

It is also our opinion that the ordinance infringes the rule of uniformity of taxation ordained by our Constitution. Note that the ordinance exacts the tax upon all motor vehicles operating within the City of Manila. It does not distinguish between a motor vehicle for hire and one which is purely for private use. Neither does it distinguish between a motor vehicle registered in the City of Manila and one registered in another place but occasionally comes to Manila and uses its streets and public highways. The distinction is important if we note that the ordinance intends to burden with the tax only those registered in the City of Manila as may be inferred from the word "operating" used therein. The word "operating" denotes a connotation which is akin to a registration, for

under the Motor Vehicle Law no motor vehicle can be operated without previous payment of the registration fees. There is no pretense that the ordinance equally applies to motor vehicles who come to Manila for a temporary stay or for short errands, and it cannot be denied that they contribute in no small degree to the deterioration of the streets and public highways. The fact that they are benefited by their use they should also be made to share the corresponding burden. And yet such is not the case. This is an inequality which we find in the ordinance, and which renders it offensive to the Constitution.

Wherefore, reversing the decision appealed from, we hereby declare the ordinance null and void.

Paras, C. J., Bengzon and Tuason, JJ., concur.

Montemayor, Reyes, Jugo and Labrador, JJ., concur in the result.

FERIA, J.:

I concur on the ground that it is a license tax.

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