

HERMINIA MONTINOLA, FRITZ LORING, ERNESTO A. KRAMER, AND SPOUSES ESTER H. JAMORA AND JUAN JAMORA, JR., PETITIONERS, VS. HON. CARLOS Y. GONZALES, JUDGE OF THE COURT OF FIRST INST...

G.R. No. L-36155. October 26, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

On June 4, 1965, the petitioners filed a complaint against the City of Iloilo and the City Assessor Noe Gregorio (Civil Case No. 6793, Iloilo CFI) to annul the revised assessment of their landholdings in Iloilo City for illegality on the ground that the City Assessor failed to comply with the provisions of the Iloilo City Charter (Commonwealth Act No. 158, Sec. 33). They alleged that in 1964, the assessed values of their lands were raised several times over the previous assessments, such that:

(a) HERMINIA MONTINOLA:

Declared Under

Location

Decla. No.

Old Assant

New Assant

Hijos de Jalandoni

Luna St.

14112

P 79,420

P141,910

Gregorio Montinola

E,Lopez St.

35438

39,840

76,860

Herminia Montinola

E,Lopez St.

35439

51,020

165,820

Matilde Jalandoni

E,Lopez St.

14168

11,300

168,400

Herminia Montinola

Iznart St.

20767

112,470

291,490

(b) ERNESTO KRAMER, JR.:

Declared Under

Location

Decla No.

Old Assant

New Assant

Ernesto A. Kramer,Jr.

Bass-Ortiz Sts.

16667

P 45,440

P105,540

Ernesto A. Kramer,Jr.

Sto.Rosasio St.

16668

13,200

24,980

Ernesto A. Kramer,Jr.

Gen. Hughes-Duran Sts.

16669

14,850

29,280

(c) FRITZ LORING:

Declared Under

Location

Decla No.

Old Assant

New Assant

Hoskyn & Co.

Basa-Guanco Sts.

13352

P328,850

P433,810

(d) ESTER JABANA DE JAMORA:

Declared Under

Lot No.

Location

Dacla No.

Ester Habana

91-C-2

Valeria-Dolgado Sts.

12238

Concepcion Ledesma

91-A

Valeria-Delgado Sts.

17355

Concepcion Ledesma

125-D-2

Valeria-Delgado Sts.

17353

Concepcion Ledesma

125-A

Valeria-Delgado Sts.

17358

Ester Habana

1480

Jaro, Iloilo City

148076

Old Assant

New Assant

P45,550

P284,520

6,810

60,580

79,320

335,660

15,360

138,630

2,150

5,730

(e) ESTER HABANA DE JAMORA

Declared Under

Lot No.

Location

Dacla. No.

Old Assant

New Assant

Ester Habana

4306-8-I

Jaro

48083

P 790

P 2,260

Ester Habana

4312-A

Jaro

48081

1,280

3,610

Ester Habana

4142

Jaro

48106

3,470

8,670

Ester Habana

55-A

Jaro

48088

5,910

14,970

Ester Habana

56-A

Jaro

48092

970

2,260

Ester Habana

57-A

Jaro

48085

2,280

6,660

Petitioners further alleged that these re--assessments were made by the City Assessor in utter disregard of the requirement of Section 33 of Commonwealth Act No. 158, the Iloilo City Charter, that the new assessment be made within the first fifteen (15) days of December, and that notice thereof be given the property owners, ten days prior to December 1, 1963, by means of announcements, and in writing.

Commonwealth Act No. 158, Section 33, the Iloilo City Charter reads:

"The City Assessor shall during the first fifteen (15) days of December of each year, add to his list of taxable real estate in the City the value of the improvements placed upon such property during the proceeding year, and any property which is taxable and which has therefore escaped taxation. He may during the same period revise and correct the assessed value of any or all parcels of real estate in the City which are not assessed at their true money value, by reducing or increasing the existing assessments as the case may be. He shall give notice for all ten days prior to December 1 on the bulletin boards of the City Hall and in the Provincial Building of Iloilo, by means of an announcement in English and another in Spanish, that he will be present in his Office for that purpose on said days, and he shall further notify in writing each person the amount of whose tax will be changed by delivering or mailing such notification to such person or his authorized agent at the last known address of such owner or agent in the premises, sometimes in the month of November." (pp. 13-14, Rollo.)

Petitioners paid under protest the increased taxes based on the new assessment and thereafter filed in the Court of First Instance of Iloilo a complaint for the refund of the excess tax on the ground that the new assessments were invalid for having been made in violation of Section 33 of Commonwealth Act No. 158.

On April 28, 1971, the trial Judge Emigdio V. Nietes rendered judgment for the petitioners, thus:

"WHEREFORE, it is the judgment of this COURT that the new assessments made by the defendant City Assessor Noe Gregorio on the properties of the plaintiffs Herminia Montinola, Ernesto A. Kramer, Jr., Fritz Loring, and Ester Habana de Jamora, in the year 1964, were done, with respect to the plaintiffs alone, and none other without following the requirements prescribed by Sec. 33, of Commonwealth Act No. 158, regarding

notice and hearing in the Office of the City Assessor, and hence unenforceable and void as regards said plaintiffs only. Let the old assessment enforce in 1963 continue in force and effect on all the properties of the plaintiffs within the City of Iloilo from 1964 and thereafter until the City Assessor of Iloilo reassess said properties again in conformity with the provisions of the law. All taxes paid and collected on the basis of the new assessments shall either be refunded or applied and or credited to subsequent years taxes until the reassessment provided herein. No pronouncement as to costs." (p. 232, Rollo.)

Because the respondents refused to comply with the decision, the petitioners filed two motions to declare them in contempt of court.

On January 4, 1973, Judge Carlos Y. Gonzales, who succeeded Judge Nietes as presiding judge of Branch VI of the Court of First Instance of Iloilo, denied the contempt motions and declared the decision of his predecessor null and void for lack of jurisdiction over the subject matter of the suit. The pertinent observations of respondent Judge read as follows:

"After analyzing cautiously the allegations advanced by the parties in support of their respective contentions, this Court has arrived at a carefully considered finding that herein defendant could not be held in contempt because on the light of the ruling laid down by the Supreme Court in the case above-cited, this Court, presided by then Presiding Judge Emigdio V. Nietes has no jurisdiction over the subject matter of this case hence the judgment rendered herein is null and void ab initio. Since the judgment is null and void, no contumacious act was committed by the defendant because as ruled in the cases of *Banco Español vs. Palanca*, 37 Phil. 921, 949; *Lipana vs. Court of First Instance of Cavite*, 40 Off. Gaz. (Supp.), 198; 74 Phil. 18, when a judgment is void for lack of jurisdiction, and its nullity is shown by virtue of its own recitals, 'it may be said to be lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head.' Hence, even if in the case at bar, nullity of the judgment is attacked not directly but collaterally in this incident of contempt, the same is of no moment for it was ruled in the case of *Gomez vs. Concepcion*, 47 Phil. 717 that a void judgment is of no effect; in the contemplation of the law it is non-existent and may be wholly disregarded. The fact that it is void may therefore be urged in collateral proceedings." (p. 27, Rollo.)

The petition is bereft of merit. Section 35 of Commonwealth Act No. 158, clearly provides the remedy of a party aggrieved by the City Assessor's appraisal or assessment of his property, thus:

"Sec. 35. Time and manner of appealing to Board of Tax Appeals. - In case any owner of real estate or his authorized agent, shall feel aggrieved by any decision of the city assessor under the preceding sections of this article, such owner or agent may, within ten days after the entry of such decision, appeal to the Board of Tax Appeals. The appeal shall be perfected by filing a written notice of the same with the city assessor and it shall be the duty of that officer forthwith to transmit the appeal to the Board of Tax Appeals with all written evidence in his possession relating to such assessment and valuation."

We ruled in *Spouses Ramon A. Gonzales and Lilia Yusay vs. Province of Iloilo*, 38 SCRA 209, that:

"If no appeal to the Board of Assessment Appeals is made by the property owner within the statutory period, the assessment becomes final and unappealable. The owner cannot go to court to question any error in the assessment and to seek refund of the realty taxes paid, since, as held in *Victorias Milling Co., Inc. vs. Court of Tax Appeals*, 22 SCRA 1008. 'By the doctrine of primacy of administrative remedy, the Provincial Board of Assessment appeals had jurisdiction over the dispute to the exclusion of the Court of First Instance,' and the party's resort to the Court of First Instance instead of appealing to the Board of Assessment Appeals was held fatal to his claim for refund."

The petitioners' argument that the trial court could hear and decide the case for "no question of assessment was directly involved but (only) the failure of the City Assessor to give the landowners a hearing in his office as provided by the Iloilo City Charter which amounted to a deprivation to the landowners of their (right to) due

process and the omission can be ordered done, and what had been done illegally can be undone" (p. 8, Rollo) is specious, for it is quite clear that they were protesting the allegedly exorbitant assessment of their landholdings (2 to 14 times their former assessment) which were allegedly made without due process. Their grievances were within the competence of the Board of Assessment Appeals to hear and decide.

Petitioners' contention that the decision of April 28, 1971, in Civil Case No. 6793, may not be annulled after it had become final is not well-taken, for a void judgment is like an outlaw which may be slain at sight wherever or whenever it exhibits its head. ". . . the proper remedy in such case, after the time for appeal or review has passed, is for the aggrieved party to bring an action to enjoin the judgment . . . In every situation of this character an appropriate remedy is at hand . . . We accordingly held that, assuming the judgment to have been void as alleged by the proponent of this motion, the proper remedy was by an original proceeding and not by motion in the cause" (Banco Español vs. Palanca, 37 Phil. 921; p. 5, Rollo). "A final judgment may be annulled on the ground of lack of jurisdiction, fraud, or that it is contrary to law" (Panlilio vs. Garcia, 119 SCRA 307).

Respondents correctly pointed out in their memorandum that: The judgment being null and void, the refusal or resistance of the public defendants to comply with what was decreed or adjudged therein was not contemptuous (Segarro vs. Maronilla, G.R. No. L-14428, July 26, 1960). Respondent Judge committed no error nor grave abuse of discretion in dismissing petitioners' motion for contempt (Annex B, Petition).

WHEREFORE, the petition for certiorari with mandamus is dismissed for lack of merit.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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