

**BOARD OF ASSESSMENT APPEALS PROVINCE OF LAGUNA,
PETITIONER, VS. COURT OF TAX APPEALS AND THE NATIONAL
WATERWORKS AND SEWERAGE AUTHORITY (NAWASA),
RESPONDENTS.**

G.R. No. L-18125. May 31, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for review of a decision of the Court of Tax Appeals reversing a resolution or decision of the Board of Assessment Appeals for the Province of Laguna.

The question involved in this case is whether the water pipes, reservoir, intake and buildings used by herein respondent, National Waterworks and Sewerage Authority-hereinafter referred to as NAWASA-in the operation of its waterworks system in the municipalities of Cabuyao, Sta Rosa and Biñan, province of Laguna, are subject to real estate tax.

The parties have submitted in the Court of Tax Appeals n stipulation of facts. The pertinent parts thereof are to the effect:

"1. That the petitioner National Waterworks and Sewerage Authority (NAWASA) is a public corporation created by virtue of Republic Act No. 1383 and that it is owned by the Government of the Philippines as well as all property comprising waterworks and sewerage systems placed under it;

"2. That, pursuant to the provisions of Republic Act No. 1383, petitioner NAWASA took over all the property of the former Metropolitan Water District and all the existing local government-owned waterworks and sewerage systems all over the Philippines, including the Cabuyao-Sta. Rosa-Biñan Waterworks System owned by the Province of Laguna (Sec. 8, Republic Act No. 1383);

"3. That the functions and activities of petitioner NAWASA, as enumerated in Republic Act No. 1383, more particularly Section 2 thereof, are the same and identical with the functions of the defunct Metropolitan Water District, particularly Section 2, Act No. 2832, as amended;

"4. That petitioner National Waterworks and Sewerage Authority (NAWASA) has no capital stock divided into shares or stocks, no stockholders, and is not authorized by its Charter to distribute dividends; and, on the other hand, whatever surplus funds it has realized, may and will after meeting its yearly obligations, have been, are and may be, used for the construction, expansion and improvement of its waterworks and sewer services;

"5. That at the time that the Cabuyao-Sta. Rosa-Biñan Waterworks System was taken over by petitioner NAWASA in 1956, the former was self-supporting and revenue-producing, but that all its surplus income are not declared as profits as this surplus are or may be invested for the expansion thereof;

"6. That in the year 1656 the Provincial Assessor of Laguna assessed, for purposes of real estate taxes, the property comprising the Cabuyao-Sta. Rosa-Biñan Waterworks System and described in Tax Declaration No.

5987 (Exh. 'A-1') which, as stated in Paragraph 2 thereof, herein petitioner NAWASA had taken over;

"7. That against the above-mentioned assessment made by the Provincial Assessor of Laguna, petitioner NWSA protested, claiming that the property described under Tax Declaration No. 5987 (Exh. 'A-1') are exempted from the payment of real estate taxes in view of the nature and kind of said property and functions and activities of petitioner, as provided in Republic Act No. 1383;

"8. That the said protest of petitioner NAWASA was overruled on appeal before the herein respondent Board of Assessment Appeals, hence the present petition for review filed by petitioner;

"* * * * *

After appropriate proceedings, the Court of Tax Appeals rendered the aforementioned decision reversing the action taken by petitioner Board, which, accordingly, has brought the case to us for review, under the provisions of Republic Act No. 1125, contending that the properties in question are subject to real estate tax because: (1) although said properties belong to the Republic of the Philippines, the same holds it, not in its governmental, political or sovereign capacity, but in a private, propriety or patrimonial character, which allegedly, is not covered by the exemption contained in section 3(a) of Republic Act No. 470; and (2) this exemption, even if applicable to patrimonial property, must yield to the provisions of section 1 of Republic Act No. 104, under which all corporations, agencies or instrumentalities owned or controlled by the Government are subject to taxation, according to petitioner appellant.

Sections 2 and 3(a) of Commonwealth Act No. 470 provide:

"SEC. 2. Incidence of real property tax.-Except in chartered cities, there shall be levied, assessed, and collected, an annual ad valorem tax on real property, including land, building, machinery, and other improvements not hereinafter specifically exempted.

"SEC. 3. Property exempt from tax.-The exemptions shall be as follows:

"(a) Property owned by * * * the Republic of the Philippines, any province, city, municipality or municipal district. * * *"

It is conceded, in the stipulation of facts, that the property involved in this case "is owned by the Government of the Philippines." Hence, it belongs to the Republic of the Philippines and falls squarely within the letter of the above provision. This notwithstanding, petitioner Board maintains that respondent NAWASA is not entitled to the benefits of the exemption established in said section 3(a), inasmuch as, in the case of the City of Cebu vs. NAWASA, 107 Phil., 1112, we ruled that the assets of the water system of the City of Cebu, which the NAWASA had sought to take over, pursuant to the provisions of Republic Act No. 1383-as it did in the case at bar, with respect to the Cabuyao-Sta. Rosa-Biñan Waterworks System-are patrimonial property of said city, which held it in a proprietary character, not in its governmental capacity.

We did not declare, however, in the Cebu case that said assets were subject to taxation. In that case we merely reiterated the doctrine, laid down in the case of City of Baguio vs. NAWASA, 106 Phil., 144 that municipal corporations hold in their proprietary character the assets of their respective waterworks, which, accordingly, cannot be taken or appropriated by the National Government and placed under the NAWASA without payment of just compensation. Neither the Cebu case nor that of Baguio sustains the theory that said assets are taxable.

Upon the other hand, in exempting from taxation property owned by the Republic of the Philippines, any province, city, municipality or municipal district * * *," said Section 3 (a) of Republic Act No. 470 makes no distinction between property held in a sovereign, governmental or political capacity and those possessed in a private, proprietary or patrimonial character. And where the law does not distinguish neither may we, unless there

are facts and circumstances clearly showing that the lawmaker intended the contrary, but no such facts and circumstances have been brought to our attention. Indeed, the noun "property" and the verb "owned" used in said Section 3 (a) strongly suggest that the object of exemption is considered more from the view point of dominion, than from that of domain. Moreover, taxes are financial burdens imposed for the purpose of raising revenues with which to defray the cost of the operation of the Government, and a tax on property of the Government, whether national or local, would merely have the effect of taking money from one pocket to put it in another pocket (Cooley on Taxation, Sec. 621, 4th Edition) Hence, it would not serve, in the final analysis, the main purpose of taxation. What is more, it would tend to defeat it, on account of the paper work, time and, consequently, expenses it would entail. (The Law on Local Taxation, by Justiniano Y. Castillo, p. 13.)

Section 1 of the Republic Act No. 104, upon which petitioner relies, reads:

"* * * All corporations, agencies, or instrumentalities owned or controlled by the government shall pay such duties, taxes, fees and other charges upon their transaction, business, industry, sale, or income as are imposed by law upon individuals, associations or corporations engaged in any taxable business, industry, or activity except on goods or commodities imported or purchased and sold or distributed for relief purposes as may be determined by the President of the Philippines."

This provision is inapplicable to the case at bar for it refers only to duties, taxes, fees and other charges upon "transaction only to duties, taxes, fees and other charges and does not include taxes on property like real estate tax.

WHEREFORE, the decision appealed from is hereby affirmed, without special pronouncement as to cost.

IT IS SO ORDERED.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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