ANTONIO Z. REYES, ELISEO P. OCAMPO AND EDITHA ARCIAGA-SANTOS, PETITIONERS, VS. COURT OF APPEALS, HON. SECRETARY OF JUSTICE FRANKLIN DRILON AND MAYOR JINGGOY ESTRADA (JOSE EJERCI...

G.R. No. 118233. December 10, 1999

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-118233/

QUISUMBING, J.:

For review is the decision[1] of the Court of Appeals, dated August 3, 1994 and its resolution[2] dated December 8, 1994 in CA - G.R. SP No. 32473. Said decision dismissed the prohibition case brought by the petitioners against respondent officials of the Municipality of San Juan to stop the enforcement of Tax Ordinance Nos. 87, 91, 95, 100 and 101.

The factual antecedents are as follows:

The Sangguniang Bayan of San Juan, Metro Manila implemented several tax ordinances as follows:

Ordinance No.	Title
87	An ordinance imposing a municipal tax of fifty percent (50%) of one percent (1%) of the gross receipt on business of printing and publication
91	An ordinance imposing a transfer tax equivalent to fifty percent (50%) of one percent (1%) of the total consideration on the sale, donation, barter or any other mode of transferring ownership or title of real property situated in San Juan, Metro Manila, or its fair market value, whichever is higher
95	An ordinance imposing fifty percent (50%) of one percent of (1%) for social housing tax on the assessed value of all real estate property in San Juan, Metro Manila in excess of P50,000.00 value as provided in the New Urban Land Reform Law, also known as R.A. 7279.
100	An ordinance imposing new rates of business taxes of the Municipality of San Juan Metro Manila

> 101 An ordinance levying an annual "Ad Valorem" tax on real property and an additional tax accruing to the special education fund (SEF)

On May 21, 1993, petitioners filed an appeal with the Department of Justice assailing the constitutionality of these tax ordinances allegedly because they were promulgated without previous public hearings thereby constituting deprivation of property without due process of law.

On June 10, 1993, respondent Secretary of Justice dismissed the appeal for having been filed out of time. Citing Section 187, R.A. No. 7160, he said:

> "It appears that the tax ordinances in question took effect on September 24, 1992, in the case of Tax Ordinance No. 87, until October 22, 1992, in the case of Tax Ordinance Nos. 91 and 95, and until October 29, 1992, in the case of Tax Ordinance Nos. 100 and 101, or more than thirty (30) days from the effectivity thereof when the appeal was filed and received by this Department on May 21, 1993 and therefore not in accordance with the requirements provided for under Section 187 of the Local Government Code of 1991.
>
> WHEREFORE, the instant appeal, having been filed out of time, is hereby DISMISSED."[3]

Undaunted, petitioners filed with the Court of Appeals a petition for certiorari and prohibition (CA-G.R. SP No. 32473). But respondent court affirmed the decision of the Secretary. On December 8, 1994, the motion for reconsideration filed by the petitioners was denied for lack of merit.

Hence, the present petition for review, raising the following questions:

- Whether or not the questioned tax ordinances are violative of the Constitution, considering the undisputed fact that no public hearings were ever held on the ordinances before they were passed and approved as required by the Local Government Code of 1991, thereby constituting as they do a deprivation of property without due process;

- Whether or not the wording of the law under Section 187 of the Local Government Code of 1991 that "any question on the constitutionality x x x of tax ordinance x x x may be raised on appeal within thirty (30) days from the effectivity thereof x x x" is a reductio ad absurdum, since if the tax ordinance is found to be unconstitutional, it will be considered as never having become effective at all from the very beginning, for which reason the thirty-day appeal period cannot be reckoned and cannot be enforced;

- Whether or not the constitutionality of a tax ordinance, or any law for that matter, can be questioned at any time despite the prescription of a limited period within which to question it, as in the case at bar; and

- Whether or not the constitutionality of an ordinance or a law may be questioned even if the question of constitutionality may not have been originally or initially raised, or is not the lis mota of the case, if it appears that a determination of the question of constitutionality is necessary to a decision of the case."[4]

In our view, the pertinent issues for our resolution now are:

> - Whether or not the Court of Appeals erred in affirming the decision of the Secretary of Justice who dismissed the prohibition suit, on the ground that it was filed out of time?
>
> - Whether or not lack of mandatory public hearings prior to enacting Municipal Ordinance Nos. 87, 91, 95, 100 and 101 render them void on the ground of deprivation of property without due process?
>
> - Whether or not the constitutional validity of Sec. 187 of the Local Government Code could be raised for the first time on appeal?

According to petitioners, respondent Secretary erred in declaring that they failed to file their appeal on time. Also, they assail Municipal Ordinance Nos. 87, 91, 95, 100 and 101, for alleged failure of the Municipal Council of San

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Juan to conduct mandatory public hearings. Because of this, they claim the ordinances are inoperative, as though they were never passed. Consequently, no prescriptive thirty-day period to question the validity of the ordinance could toll to bar their appeal to the Department of Justice.

Sec. 187 of R.A. 7160, cited by respondent Secretary, provides as follows:

> "Sec. 187-- Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings. -- The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally , That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction."

Clearly, the law requires that the dissatisfied taxpayer who questions the validity or legality of a tax ordinance must file his appeal to the Secretary of Justice, within 30 days from effectivity thereof. In case the Secretary decides the appeal, a period also of 30 days is allowed for an aggrieved party to go to court. But if the Secretary does not act thereon, after the lapse of 60 days, a party could already proceed to seek relief in court. These three separate periods are clearly given for compliance as a prerequisite before seeking redress in a competent court. Such statutory periods are set to prevent delays as well as enhance the orderly and speedy discharge of judicial functions.[5] For this reason the courts construe these provisions of statutes as mandatory.[6]

A municipal tax ordinance empowers a local government unit to impose taxes. The power to tax is the most effective instrument to raise needed revenues to finance and support the myriad activities of local government units for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress, and prosperity of the people.[7] Consequently, any delay in implementing tax measures would be to the detriment of the public. It is for this reason that protests over tax ordinances are required to be done within certain time frames. In the instant case, it is our view that the failure of petitioners to appeal to the Secretary of Justice within 30 days as required by Sec. 187 of R.A. 7160 is fatal to their cause.

On the second issue, petitioners allege that the Sangguniang Bayan of San Juan did not comply with the prescribed procedure for enacting an ordinance because they failed to conduct public hearings.

In Figuerres vs. Court of Appeals,[8] where the municipality failed to conduct public hearings prior to enacting the revisions on the schedule of fair market values and assessment level of classes of real estate properties, the Court said:

> "Petitioner is right in contending that public hearings are required to be conducted prior to the enactment of an ordinance imposing real property taxes. R.A. No. 7160, Sec. 186, provides that an ordinance levying taxes, fees, or charges `shall not be enacted without any prior public hearing conducted for the purpose.'
>
> However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidences showing that procedure prescribed by

> law was not observed in their enactment. x x x
>
> Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof. Since petitioner failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality."[9]

We find Figuerres instructive. Petitioners have not proved in the case before us that the Sangguniang Bayan of San Juan failed to conduct the required public hearings before the enactment of Ordinance Nos. 87, 91, 95, 100 and 101. Although the Sanggunian had the control of records or the better means of proof regarding the facts alleged, petitioners are not relieved from the burden of proving their averments.[10] Proof that public hearings were not held falls on petitioners' shoulders. For failing to discharge that burden, their petition was properly dismissed.

In any event, for the purpose of securing certainty where doubt would be intolerable, it is a general rule that the regularity of the enactment of an officially promulgated statute or ordinance may not be impeached by parol evidence or oral testimony either of individual officers and members, or of strangers who may be interested in nullifying legislative action.[11] This rule supplements the presumption in favor of the regularity of official conduct which we have upheld repeatedly, absent a clear showing to the contrary.

Finally, on the validity of Section 187 of R.A. 7160, the Local Government Code, we must stress that the constitutionality of an act of Congress will not be passed upon by the Court unless at the first opportunity that question is properly raised and presented in an appropriate case, and is necessary to a determination of the case, particularly where the issue of constitutionality is the very lis mota presented.[12] The constitutional validity of a statutory provision should not be entertained by the Court where it was not specifically raised below, insisted upon, and adequately argued.[13] Moreover, given the circumstances in this case, we find no genuine necessity to dwell on the issue of constitutional invalidity of Section 187 in relation to issue of valid enactment of the subject ordinances, as shown in the foregoing discussion. Suffice it now to say that, having resolved the first and second issues, we find no grave abuse of discretion nor reversible error in the decision of the respondent appellate court. Further constitutional scrutiny of Section 187 is unwarranted.

WHEREFORE, the present petition is DISMISSED for lack of merit and the assailed decision of the Court of Appeals is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago and De Leon, Jr., JJ., concur.

---

[1] Rollo, pp. 15-18.

[2] Id. at p. 19.

[3] Id. at 50.

[4] Rollo, p. 4.

[5] Agpalo, Statutory Construction, Third Edition 1995, p. 266.

[6] Ibid., citing Shioji vs. Harvey, 43 Phil. 333 (1922); Alvero vs. De la Rosa, 76 Phil. 428, 434 (1946).

[7] Mactan Cebu International Airport Authority vs. Marcos, 261 SCRA 667, 690 (1996).

[8] G.R. No. 119172, March 25, 1999.

[9] Id. at pp. 8-9.

[10] People vs. Pajenado, 31 SCRA 812, 817 (1970).

[11] 73 Am Jur 2d, Statutes, Sec. 81.

[12] National Economic Protectionism Association vs. Ongpin, 171 SCRA 657, 665 (1989); People vs. Vera, 65 Phil. 56, 57 (1937); Dumlao vs. Comelec, 95 SCRA 392, 403 (1980).

[13] City of Baguio vs. Marcos, 27 SCRA 342, 351-352 (1969).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.