MARIANO LOPEZ Y CHAVEZ AND JOSE LOPEZ Y CASTELO AS ADMINISTRATORS OF THE ESTATE OF LORENZO LOPEZ Y CHAVEZ, PLAINTIFFS AND APPELLANTS, VS. J. W. CROW, AS PROVINCIAL TREASURER OF ...

G.R No. 13429. October 14, 1919

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of the Province of Batangas on the 27th day of August, 1917. Its purpose was to recover of the provincial treasurer of Batangas the sum of ninety-seven centavos (P.97) as taxes which the plaintiffs allege was collected by the defendant illegally.

The cause of action arose in the following manner:

During the lifetime of Lorenzo Lopez he declared forty or mores parcels of land in the Province of Batangas for taxation purposes. In his declaration he gave the area and value of said various parcels of land. Later the area and value of said parcels of land were revised by the Treasurer of the Province of Batangas. During said revision great discrepancies were discovered between the actual measurement of practically every parcel of land declared by Lopez and the real actual measurement of the same as found by virtue of said revision. (Exhibit 1.)

An examination of Exhibit 1 discloses that in many cases the area of the land declared by Lorenzo Lopez was found to contain twice as much land upon the revision. For example: In one case he declared that one parcel contained 40 hectares; upon revision it was found to contain 84 hectares, 90 ares and 33 centares. In another case the original declaration showed that a particular parcel contained 40 hectares; upon the revision it was found to contain 100 hectares, 82 ares and 60 centares. In another case the original declaration represented that the land contained 55 hectares and 89 ares; while upon the revision it was found to contain 116 hectares, 16 ares and 82 centares. In another case the original declaration showed that the land contained 55 ares and 89 centares; while the revision showed that the land contained 3 hectares, 73 ares and 74 centares. An examination of Exhibit 1 shows other glaring discrepancies between the original declaration and the actual area which the land contained.

Upon the discovery of said discrepancies the provincial treasurer, under authority conceded to him by Act No. 2238, proceeded to collect the taxes which ought to have been paid, and the excess of each of said parcels of land was reassessed and the additional tax was collected. The owner of the land protested against the payment on one parcel only where the amount so collected was but ninety-seven centavos.

The defendant presented a general and special defense. In the special defense the defendant attempted to show that said tax had been collected legally. Upon the question thus presented, and after trial, the Honorable Vicente Jocson, judge, in a very carefully prepared opinion in which he fully discussed the applicability and the legality of the Acts of the Legislature, arrived at the conclusion that said ninety-seven centavos had been legally collected, and absolved the defendant from all liability under the complaint, with costs against the plaintiffs.

The decision of Judge Jocson contains such a full statement of the facts and such a complete analysis of the law applicable thereto that we adopt his argument and his conclusions as ours. Judge Jocson said:

> "This action deals with the legality or illegality of the collection of land taxes for the excess area of certain lands that had been formerly declared for assessment by their owner. The plaintiffs allege that the collection the Provincial Treasurer of Batangas is now trying to make for said excess is illegal; that Act No. 2238 is void and unconstitutional; that the tax surcharge of 40 per cent is usurious; that section 12 of said Act No, 2238 has been repealed and substituted by section 2 of Act No. 2653; and that the last mentioned act has cured the error of interpretation committed by the fiscal agents of the Government; that this Act expressly declares that no land taxes should be imposed for the excess area in the declaration of former years, inasmuch as the excess area, the tax on which is now sought to be collected, cannot be considered as real estate declared for the first time; and that Act No. 2653 has retroactive effect in so far as it affects this case.
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> "The defendant filed an answer which is now on record, denying certain allegations stated in the complaint, and alleging that the taxes for excess area that are now sought to be collected have never been paid by the plaintiffs; that their collection as well as that of their surcharges is perfectly legal and authorized by the existing laws. Defendant also alleges that the plaintiffs have not paid the taxes on the excess area of most of their lands, such taxes amounting in some cases to P200-P500 or 1,000 per cent, and that plaintiffs have elected to file this action for the recovery of an insignificant amount of tax on a small land.
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> "During the hearing of the present case there were presented in court declaration sheets referring specially to the parcel of land upon which the plaintiffs had decided to bring this action, that is, the little excess area of a parcel of land the tax on which amounts to 97 centavos, which was paid under protest. The provincial treasurer also introduced evidence to the effect that the plaintiffs are still owing P1,395.32 for taxes on account of excess area of lands previously declared. (Exhibit 1 of the defendant.)
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> "Before discussing the evidence submitted by the parties and the facts by them agreed upon, I deem it necessary briefly to state the cause that has given rise to this action. Messrs. Lopez, the plaintiffs in this case, are the administrators of the estate of the deceased Lorenzo Lopez, whose estate owes, a very considerable amount of taxes in several municipalities of this province, on account of excess areas discovered during the revision of the assessments made in accordance with the provisions of Act No. 2238, for which reason the Provincial Treasurer, in accordance with section 185 of provincial circular No 37, dated June 24, 1913, prayed this court in Case No. 1067, intestate of the deceased Lorenzo Lopez, that the administrators Mariano Lopez and Jose Lopez be ordered to pay the aforesaid amounts of money. The propriety or impropriety of the collection sought to be enforced was extensively discussed in said testamentary proceedings, the parties going to the extent of introducing adequate evidence in support of their contentions; what is more, counsel for the estate of Lorenzo Lopez raised before this court the question of the illegality of the collection of land taxes on account of the excess area resulting from the revision that had been made in accordance with Act No. 2238, as also the unconstitutionality of said law, also alleging that Act No. 2653, which is retroactive in effect, and the only law applicable to cases of excess areas prohibits the collection of such taxes for previous years. However, in the same testate proceedings, this court, on August 16, 1917, ordered the administrators to pay within 15 days the amounts owing to the Treasury, the court declining to decide in a testamentary proceedings the legality or illegality of the tax then sought to be collected, and also empowered the administrators, pursuant to section 476 of the Administrative Code upon payment under protest of the amount of the tax, to commence the proper action to resolve the points of law raised in the said special proceedings. Agreeably with the instruction contained in the order aforesaid, the estate of Lorenzo Lopez has filed this action, with the peculiarity that the parcel of land whose excess area was very insignificant has been selected for the purpose, as the tax for this excess amounts to 97 centavos only, which has been paid under protest, the estate leaving unpaid, however, the taxes on the excess area of many parcels that amount to P1,395.32, as per Exhibit 1 of the defendant.
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> "Act No. 2238 was enacted by the Legislature for the purpose of correcting the mistakes that were supposed to exist in the land tax assessments and for this purpose said law was approved, establishing assessment offices

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> and making adequate rules for putting into effect the intention of the Legislature, which is to repair the injustice done, if any there be, and collect taxes from property never before declared, and also collect misstatement of areas of lands declared for assessment. There can be no doubt, that this was the intention of the Legislature, as the revision made in former years had not given satisfactory results, because extensive lands were discovered to have been declared by their owners whose declarations, however, of the area of their lands were erroneous or less than what they really were, as evidenced by the result of the revision that is now being made in compliance with Act No. 2238. It is of no consequence to consider whether the original declarations made by the owners, the litigants herein, were made without bad faith; the fact is that their first and original land declarations in accordance with the provisions of Act No. 82 and the acts amendatory thereto were not in harmony with the true facts. That the declarations of the deceased Lorenzo Lopez were evidently erroneous is graphically shown by Exhibit 1 of the defendant, which is a statement showing the area as originally declared and the present area resulting from the revision, and the corresponding excess. In the case of some parcels of land the excess reached 5,440 per cent (there are others of less amount), which correspond to the old declaration No. 2119, which specified an area of 37 ares and 25 centares (p. 4, Exhibit 1), but upon a revision recently made it was found to contain 20 hectares and 64 ares, thus giving an excess area of 20 hectares, 26 ares and 75 centares.
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> "The difference between the areas in former declarations and the areas, as now determined by the new revision, constitutes the excess area of the lands, and the present action has to do with these excesses. The argument turns principally upon the interpretation of section 12 of Act No. 2238, which reads, verbatim, as follows:
> " 'Section 12. Real property declared for the first time shall have taxes assessed against it from and including the year in which, under the provisions of then existing law, the same would have been subject to taxation: Provided, That such taxes shall not be collected for more than the four preceding years, and such property shall be exempt from any penalty for delinquency if said taxes are paid within the tax collection period for the year next following the assessments hereunder, but if not paid within that time it shall be subject to all the penalties for delinquency to which it would have been subject.'

"It should be borne in mind that the taxes that are sought to be collected from the administrators of the estate of Lorenzo Lopez are among those that come under the provisions of Act 2238, that is to say, under section 12 of that law before it was amended by Act No. 2653 on February 24, 1916. Plaintiffs maintain that section 12 of Act No. 2238 refers solely to real estate declared for the first time and does not apply to the area which, upon revision, has been shown to be in excess of that which was formerly declared. This construction that plaintiffs would have us believe would seem to be reasonable, but when we consider the motives that prompted the Legislature to pass Act No. 2238, all the arguments adduced in support of such interpretation become untenable. This Act was enacted with the object of correcting the injustices and mistakes that existed in the system of assessment of lands, among these being the presumption that there were lands that, if declared, were with an area less that what they really contained; and, indeed, this is what the revision has disclosed, because, if it is unjust that a landowner who declared correctly his real property should pay more than what he should legally pay for the actual area of his land, it is neither just that another landowner should be permitted by an involuntary mistake or through other causes, not to say bad faith, to state an area far less than that actually contained in his land and pay to the State a tax far below that which he should really pay. This was one of the objects of the Legislature in ordering the revision, so that all real estate should pay the taxes that legally must accrue to the State. Wherefore, even taking the Spanish text of the phrase used in section 12 of Act No. 2238 that 'real property declared for the first time shall have taxes assessed against it, etc.,' it should not be understood to apply only to real estate that have never been declared; as within the meaning of such phrase, the excess areas resulting from the revision must be understood as never having been declared before; because only that area must be deemed as declared which is stated in the declaration sheet, and the area over and above that can not be considered as ever having been declared. However, in practice, doubt must have arisen in the construction of section 12 of Act No. 2238, if

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literally construed that only the taxes for the four preceding years are collectible against the real property never before declared by its owners and that it is not applicable to the excess areas discovered in the real property formerly declared—an interpretation that would be unjust if the owners of such excess areas be exempted from the payment of taxes,—and probably on this account section 12 of Act No. 2238 was made more clear by Act No. 2653 which reads as follows:

> " 'Section 12. Real property declared for the first time shall have taxes assessed against it from and including the year in which, under the provisions of then existing law, the same would have been subject to taxation; but such taxes shall not be collected for more than the four years preceding the one in which the assessment was made. Real property part of the area or improvements of which have been declared for the first time shall not be taxed as to the area or improvements newly declared until the year next following the one in which the assessment was made.'

"As will be seen, Act No. 2653 expressly provides that the excess area, resulting from the revision of declared Tands, must pay the corresponding tax. To my mind this provision makes clear the meaning of section 12 of Act No. 2238 to the effect that all the area of the land declared must be paid for, whether included in the first declaration or resulting from the revision, in other words, it has made more clear the construction that should be given to the former law, Act No. 2238, which compelled every landowner to pay for all the area of his land as for example the excess that may be discovered in lands previously declared. The last paragraph of section 5 of the aforesaid law which imposes upon the assessor the duty to assess all real estate that may be declared for the first time, is confirmative of my opinion, in so constructing section 12 of Act No. 2238, that land taxes must be paid for the real property newly declared, as well as for the excess thereof that may be discovered later. This is the meaning gathered from the Spanish text of the law, although it seems that it is different from the English text, which is clearer than the Spanish. The last paragraph of said section refers to the land tax assessment that must be made by the assessor, the first paragraph refers to real estate that have never been declared by their owners or to lands whose owners are unknown, and the second paragraph refers to lands formerly declared. In the latter case if an excess is discovered the law requires the assessor to make a new declaration covering the excess area and, consequently, this interpretation of the law is correct inasmuch as with reference to the excess area the declaration is really a new one, because this excess had never been included in the area given in the original declaration, wherefore, such declarations of excess areas must be considered as of a real estate newly declared.

"The areas of real estate for the purposes of land tax payments have been expressed according to the metric system, that is, by square meters, or by hectares, or its subdivisions, and the assessments on real estate have been made on this basis and never were the assessors concerned, formerly, with the true limits of the land declared, because this is not important in the assessment of the tax. Counsel for plaintiffs maintain that the Government, before ordering the revision, had the means to verify the accuracy of the sworn statements of the landowners, and, consequently, if it did not do so, the landowners cannot be blamed for inaccuracies in their declarations. This statement would appear to be correct, but when we examine the old land tax laws, it will be found that there never has been appropriated any amount of money for the payment of the personnel necessary to verify the exactness of the declarations regarding each parcel of land, and, in my opinion, this argument could be maintained only when the difference in area is not more than ten per cent on property more than ten hectares. However, the argument that it is an innocent mistake of the landowner, can not be well taken when the difference reaches such a great amount as, let us say, fifty per cent, for it is unbelievable that a land owner who has titles to his lands and cultivates them can be ignorant of the approximate area of his land, as there must be a great difference of production between a parcel of land ten hectares in area and another of twenty hectares and, consequently, the owner cannot set up the defense of having committed a bona fide mistake when the difference in area amounts to fifty per cent, which argument might be asserted only when the land has never been measured, and is an

uncultivated woodland, for the owner would not have occasion to find out the area of his land by its production. For if it is rice producing, a parcel of land, let us say, twenty hectares in area, according to the method of planting exiting in this Province of Batangas, would require forty cavanes of palay seed if it be in the uplands, or if it is lowland, only twenty cavanes of seed would be necessary.

"Another point advanced by the plaintiffs is the question about the retroactive effect of Act No. 2653 which, according to them, has cured the injustice done by Act No. 2238. We have carefully examined Act No. 2653, which is said to be the curative Act that must have retroactive effect, and from its examination we have been unable to draw any conclusion that it was the object of the Legislature to give it retroactive effect.

"Article 3 of the Civil Code provides that: Laws shall not have a retroactive effect unless therein otherwise provided. According to this provision of law, in order that a law may have retroactive effect it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood which is not embodied in the law. We fail to find any provision in said Act No. 2653 about its retroactive effect. Furthermore, it must be borne in mind that a law is a rule established to guide our actions with no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions. This doctrine is deduced from Law 15, tit. 14, partida 3.a, and from Law 13, tit. 71, book 10, Nov. Rec. Wherefore, in view of the foregoing, the allegation the plaintiffs regarding the retroactive effect of said law is untenable.

"It is also claimed that section 12 of Act No. 2238 is null and unconstitutional. I do not think it necessary to extend my arguments in order to conclude that that law is perfectly constitutional and valid. It cannot be denied that the State has the right inherent to its sovereignty to assess taxes upon the property of its citizens as it is self-evident that the State needs funds to run the Government for the benefit of its citizens, hence the existence of constitutional provisions regulating this power of taxation. In the present case there is no ground for maintaining that the Legislature has exceeded its powers in enacting said Act No. 2238, and ordering the revision of the assessments, for, indeed, the very reason that moved it in so doing was to do justice to all, by correcting errors, so as to make all citizens pay their respective shares proportionately to their ability.

"As respects the allegation that the surcharge of 40 per cents is usurious, we do not think that said surcharge is illegal. Statutes authorizing assessments for back taxes on omitted property are not unconstitutional, and as affecting the right of the state to collect such taxes it is not material how the property happened to be omitted. (37 Cyc, 772.)

"A statute imposing a penalty for delinquency in the payment of taxes, or for failure or refusal to return property for assessment, is not invalid on the ground of inequality or unjust discrimination; but a penalty cannot be imposed for any default or omission which is wholly that of the public officers and not of the taxpayer. (37 Cyc, 745.)

"I think that the foregoing citations are sufficient, though other authorities could be cited, but I am omitting them in order not to make this decision very long.

"In conclusion it appears from the record and from the judicial knowledge of this Court that this action concerns only a small parcel of land for the excess of which the plaintiffs paid 97 centavos, excluding from the complaint many of the parcels of land the tax on which, as already mentioned, amounts to more than one thousand pesos. We are not aware of the reason for so omitting them, and the decision in this case must not affect this small property alone but must decide the law upon which the complaint was based, that ts, relative to the legality or illegality of the assessment upon the excess areas as the result of the revision of the lands already declared by their

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owners. And resolving this issue the Court decides that the law in question is valid and constitutional, and, consequently, the collection of taxes thereunder is also valid.

"Wherefore, the Court concludes that Act No. 2238 is not unconstitutional and the collection, therefore, of the taxes authorized therein are perfectly legal; that Act No. 2653 has no retroactive-effect and that its provisions amending section 12 of Act No. 2238 is a mere explanation of certain doubts that may have existed in the text of the former law; consequently the defendant is absolved from the complaint and the plaintiffs are sentenced to pay the costs.

"So ordered."

For all of the foregoing reasons the judgment of the lower court is hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Araullo, Malcolm, and Avanceña, JJ., concur.

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