

PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. THE CITY OF ILOILO; ROMEO MANIKAN, IN HIS CAPACITY AS TREASURER OF ILOILO CITY; FRANKLIN CORDERO, JR., IN HIS CAPACITY AS ASSESSOR OF...

G.R. No. 143214. November 11, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

On October 9, 1990, the respondent City of Iloilo sent a “Notice of Sale of Delinquent Real Properties” to petitioner Philippine Ports Authority (PPA) for non-payment of real property taxes covering its facilities and edifices at the Iloilo port for the years 1985-1989, to wit:

Tax Dec. No.

Kind of Property

Assessment

56325

Warehouse

P 81,369.26

61745

Building (Shed)

5,793.22

61747

Residential House

1,754.68

59949

Building

13,959.42

61741

Building

10,294.10

61742

Building

9,998.86

61744

Building

2,821.41[1]

The respondent city was the only winning bidder at the public auction conducted by the City Treasurer and the Assessor. Consequently, the said properties were sold to it, and, conformably with Section 76 of Presidential Decree (P.D.) No. 464, a certificate of sale over the properties was executed in its favor.

On November 16, 1990, the City Treasurer sent a “Notice of Right to Redeem” to the petitioner advising it that it had only until October 30, 1991 within which to redeem the properties. The petitioner forthwith filed its complaint against the respondents, the City of Iloilo, its City Treasurer and its Assessor with the Regional Trial Court (RTC) of Iloilo City, Branch 36, for the nullification of the assessment and the sale with a prayer for a temporary restraining order and/or a writ of preliminary injunction. In its complaint, the petitioner alleged, inter alia, that the properties belonged to the Bureau of Customs and/or the national government; hence, the properties were exempt from the payment of realty taxes. To support its argument, the petitioner cited Section 25 of P.D. No. 857, Section 40(a) of P.D. No. 464 and Section 1(e) of Executive Order (E.O.) No. 93 issued on December 17, 1986.

In their answer to the complaint, the respondents alleged that the petitioner’s exemption had already been withdrawn under P.D. No. 1931 which took effect on June 11, 1984. Consequently, the sale of the petitioner’s properties at public auction was in accord with law.

On October 22, 1992, the trial court rendered judgment in favor of the respondents and ordered the dismissal of the complaint. The decision was elevated to the Court of Appeals via a petition for review, which rendered judgment affirming the decision of the RTC on September 15, 1999. In its Decision,[2] the appellate court ruled that since the petitioner had acquired the properties, it was liable for realty taxes due thereon. The petitioner’s motion for reconsideration of the said decision was denied by the appellate court; hence, the instant petition for review on certiorari for the reversal thereof.

The petitioner contends that the subject properties are owned by the Republic of the Philippines. It avers that while under Section 30 of P.D. No. 857, the said properties were transferred to the petitioner, the Republic of the Philippines retained ownership over the same. It claims that while it administers and operates the port of Iloilo, it does so for the benefit of the general public and not for taxable persons. As such, the said properties are exempt from realty taxes under Section 40 of P.D. No. 464. The petitioner further asserts that P.D. No. 1931 and E.O. No. 93 have no application to properties owned by the Republic of the Philippines.

In their comment on the petition, the respondents aver that by virtue of P.D. No. 857 issued on December 23, 1975, the petitioner became the owner of the subject properties. They point out that the petitioner even declared the properties for taxation purposes under its name. The respondents, likewise, posit that the exemption on realty taxes in favor of the petitioner had effectively been withheld under P.D. No. 1931, and that the petitioner cannot invoke P.D. No. 464 because the subject properties are being leased to taxable private persons. The respondents appended to their comment the tax declarations on the properties under the name of the petitioner.

The petition has no merit.

Petitioner PPA Became the Owner
Of the Port Facilities and
Appurtenances under P.D. No. 857

When P.D. No. 857 took effect on December 23, 1975, the petitioner became the owner of the facilities and appurtenances, conformably to Sections 30 to 33 thereof, to wit:

SEC. 30. Transfer of Existing and Completed Physical Facilities – In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all existing and completed public port facilities, quays, wharves, docks, lands, buildings and other property, movable or immovable, belonging to those ports declared as Ports Districts for purposes of this Decree.

SEC. 31. Transfer of Intangible Assets – In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all intangible assets, powers, rights, foreshore rights, interests and privileges belonging to the Bureau of Customs, and Bureau of Public Works and other agencies relating to port works or port operations, subject to terms to be arranged by and between the Authority and agencies concerned. Any disagreement relating to such transfer shall be elevated to the President for decision.

SEC. 32. Projects in Progress – In accordance with the transitory provisions of this Decree, all ongoing projects relating to the construction of ports and port facilities shall be continued by the agency or agencies involved until completion. After completion, such projects shall be transferred to the Authority in accordance with the agreement among agencies concerned. Any disagreement relating to such transfer shall be elevated to the President for decision.

SEC. 33. Transfer of Liabilities and Debts – Upon the transfer and acceptance by the Authority of the existing physical facilities, intangible assets, and completed projects referred to in the Sections immediately preceding, all debts, liabilities, and obligations of the Bureau of Customs, the Bureau of Public Works, and other government agencies or entities concerned in respect of such physical facilities, intangible assets and completed projects within the Port Districts shall, likewise, be transferred to or deemed incurred by the Authority.

Section 40 of the law further provides that any and all other powers, rights, duties and functions vested in and all properties, authority or instrumentality pertaining to every matter concerning port facilities, ports operations, or port works were transferred to and were vested in the petitioner. These provisions are self-executory, without need of any other formalities or documentations to implement the same.

That the petitioner has not been issued any torrens title over the port and port facilities and appurtenances is of no legal consequence. A torrens title does not, by itself, vest ownership; it is merely an evidence of title over real properties.[3] The torrens system does not create or vest title. It has never been recognized as a mode of acquiring ownership over real properties.[4]

That the petitioner became the owner of said facilities and appurtenances is bolstered by the fact that under Article VI, Section 10(b) of P.D. No. 857, the initial paid up capital of the petitioner consists of the following:

(i) The value of assets (including port facilities, quays, wharves, and equipment) and such other properties, movable and immovable as may be contributed by the Government or transferred by the Government or any of its agencies as valued at the date of such contribution or transfer and after deducting or taking into account the loans and other liabilities of the Authority at the time of the takeover of the assets and other properties.

As we held in *Mactan Cebu International Airport Authority v. Marcos*:^[5]

It may be reasonable to assume that the term “lands” refer to “lands” in Cebu City then administered by the Lahug Air Port and includes the parcels of land the respondent City of Cebu seeks to levy on for real property

taxes. This section involves a “transfer” of the “lands,” among other things, to the petitioner and not just the transfer of the beneficial use thereof, with the ownership being retained by the Republic of the Philippines.

This “transfer” is actually an absolute conveyance of the ownership thereof because the petitioner’s authorized capital stock consists of, inter alia, “the value of such real estate owned and/or administered by the airports.” Hence, the petitioner is now the owner of the land in question and the exception in Section 234(c) of the LGC is inapplicable.[6]

**The Petitioner is Liable
For Realty Taxes on its
Facilities and Appurtenances**

The petitioner cannot escape liability from the payment of realty taxes by invoking its exemption in Section 40(a) of P.D. No. 464,[7] which reads:

“SEC. 40. Exemptions from Real Property Tax – The exemption shall be as follows:

a) Real Property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned corporation so exempt by its charter, provided, however, that this exemption shall not apply to real property of the above-named entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person. ...

The petitioner cannot, likewise, find solace in Section 25 of P.D. No. 857,[8] to wit:

SEC. 25. Exemption from Realty Taxes – The Authority shall be exempt from the payment of real property taxes imposed by the Republic of the Philippines, its agencies, instrumentalities or political subdivisions; Provided, That no tax exemptions shall be extended to any subsidiaries of the Authority that may be organized; Provided, finally, That investments in fixed assets shall be deductible for income tax purposes.

First. Section 1, P.D. No. 1931 which took effect on June 11, 1984, effectively withdrew the exemption granted to the petitioner, a government-owned or controlled corporation –

Section 1. The provisions of special or general law to the contrary notwithstanding, all exemptions from the payment of duties, taxes, fees, imports and other charges heretofore granted in favor of government-owned or controlled corporations including their subsidiaries, are hereby withdrawn.

Second. Under the last paragraph of Section 234 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC), the petitioner’s exemptions from the real property tax were withdrawn upon the effectivity of the law. Thus:

SEC. 234. Exemptions from Real Property Tax. – The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof had been granted, for consideration or otherwise, to a taxable person;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

(d) All real property owned by duly-registered cooperatives as provided for under R.A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.[9]

Patently then, it was the intention of Congress to withdraw the tax exemptions granted to or presently enjoyed by all persons, including government-owned or controlled corporations, upon the effectivity of the LGC as shown by Section 193 thereof:

Section 193. – Withdrawal of Tax Exemption Privileges. – Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under R.A. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

Furthermore, under the repealing clause, Section 534(f) of the LGC, all general and special laws, acts, decrees, or part or parts thereof which are inconsistent with any of the provisions of the law were repealed:

Section 534(f) – Repealing Clause. – All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this code are hereby repealed or modified accordingly.

The clause partakes of the nature of a general repealing clause because it fails to designate the specific act or acts identified by number or title that are submitted to be repealed.[10]

Thus, Section 25 of P.D. No. 857 and Section 40 of P.D. No. 464 were repealed by Rep. Act No. 7160. We emphasized the *raison d'être* for the withdrawal of the exemption in *Mactan Cebu International Airport Authority v. Marcos*[11] as follows:

SEC. 40. Exemptions from Real Property Tax. –The exemption shall be as follows:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned or controlled corporation so exempt by its charter: Provided, however, That this exemption shall not apply to real property of the above-mentioned entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person.

Note that as reproduced in Section 234(a), the phrase “and any government-owned or controlled corporation so exempt by its charter” was excluded. The justification for this restricted exemption in Section 234(a) seems obvious: to limit further tax exemption privileges, especially in light of the general provision on withdrawal of tax exemption privileges in Section 193 and the special provision on withdrawal of exemption from payment of real property taxes in the last paragraph of Section 234. These policy considerations are consistent with the State policy to ensure autonomy to local governments and the objective of the LGC that they enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals. The power to tax is the most effective instrument to raise needed revenues to finance and support myriad activities of local government units for the delivery of basic services essential to the promotion of the general welfare and the enhancement of peace, progress, and prosperity of the people. It may also be relevant to recall that the original reasons for the withdrawal of tax exemption privileges granted to government-owned and controlled corporations and all other units of government were that such privilege resulted in serious tax base erosion and distortions in the tax treatment of similarly situated enterprises, and there was a need for these entities to share in the requirements of development, fiscal or otherwise, by paying the taxes and other charges due from them.[12]

It is wont to state that even under Section 40 of P.D. No. 464, the petitioner is considered a taxable person. The bare fact that the port and its facilities and appurtenances are accessible to the general public does not exempt it from the payment of real property taxes. It must be stressed that the said port facilities and appurtenances are the petitioner's corporate patrimonial properties, not for public use, and that the operation of the port and its facilities and the administration of its buildings are in the nature of ordinary business. The petitioner is clothed, under P.D. No. 857, with corporate status and corporate powers in the furtherance of its proprietary interests:

SEC. 6. Corporate Powers and Duties –

a) The corporate duties of the Authority shall be:

- (i) To formulate in coordination with the National Economic and Development Authority a comprehensive and practicable Port Development plan for the State and to program its implementation, renew and update the same annually in coordination with other national agencies.
- (ii) To supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the Authority.
- (iii) To prescribe rules and regulations, procedures, and guidelines governing the establishment, construction, maintenance, and operation of all other ports, including private ports in the country.
- (iv) To license, control, regulate, supervise any construction or structure within any Port District.
- (v) To provide services (whether on its own, by contract, or otherwise) within the Port Districts and the approaches thereof, including but not limited to --

-berthing, towing, mooring, moving, slipping, or docking any vessel;

-loading or discharging any vessel;

-sorting, weighing, measuring, storing, warehousing, or otherwise handling goods.

- (vi) To exercise control of or administer any foreshore rights or leases which may be vested in the Authority from time to time.
- (vii) To coordinate with the Bureau of Lands or any other government agency or corporation, in the development of any foreshore area.
- (viii) To control, regulate, and supervise pilotage and the conduct of pilots in any Port District.
- (ix) To provide or assist in the provision of training programs and training facilities for its staff of port operators and users for the efficient discharge of its functions, duties and responsibilities.
- (x) To perform such acts or provide such services as may be deemed proper or necessary to carry out and implement the provisions of this Decree.

b) The corporate powers of the Authority shall be as follows:

- (i) To succeed in its corporate name.
- (ii) To sue and be sued in such corporate name.
- (iii) To adopt, alter, and use a corporate seal which shall be judicially noticed.
- (iv) To adopt, amend, or repeal its by-laws.
- (v) To create or alter its own organization or any Port Management Unit, and staff such an organization or Port Management Unit with appropriate and qualified personnel in accordance with what may be deemed proper or necessary to achieve the objectives of the Authority.
- (vi) To make or enter contracts of any kind or nature to enable it to discharge its functions under this Decree.
- (vii) To acquire, purchase, own, lease, mortgage, sell, or otherwise dispose of any land, port facility, wharf, quay, or property of any kind, whether movable or immovable.
- (viii) To exercise the right of eminent domain, by expropriating the land or areas surrounding the Port of harbor, which in the opinion of the Authority, are vital or necessary for the total development of the Port District.
- (ix) To levy dues, rates, or charges for the use of the premises, works, appliances, facilities, or for services

- provided by or belonging to the Authority, or any other organization concerned with port operations.
- (x) To reclaim, excavate, enclose, or raise any part of the lands vested in the Authority.
 - (xi) To dredge or provide dredging services, within a Port District or elsewhere.
 - (xii) To acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the Port Districts.
 - (xiii) To supply water or bunker for ships.
 - (xiv) To obtain, insure for or require the insurance of any property, movable or immovable, belonging to the Authority and/or goods in the custody of the Authority.
 - (xv) To do all such other things and to transact all such business directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the Authority.
 - (xvi) Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Decree.

The petitioner is even empowered to invest its funds in such government securities approved by the Board of Directors, and derives its income from rates, charges or fees for the use by vessels of the port premises, appliances or equipment.

SEC. 20. Rates and Charges –

a) The Authority may impose, fix, prescribe, increase or decrease such rates, charges or fees for the use of port premises, works, appliances or equipment belonging to the Authority and port facilities provided, and for services rendered by the Authority or by any private organization within a Port District.

Provided, that upon the coming into operation of this Decree, the rates of storage and arrastre charges in all ports of the Philippines shall be those now provided under Parts 4 and 5 of Title VII, Book II of the Tariff and Customs Code until such time when the President of the Philippines upon recommendation of the Board may order that the revised rates, charges or fees are in effect.

b) The Authority shall regulate the rates or charges for port services or port-related services so that taking one year with another, such rates or charges furnish adequate working capital and produce an adequate return on the assets of the Authority. In regulating the rates or charges for individual ports, the Authority shall take into account the development needs of the port's hinterland.

c) All dues, fees, charges and other sums, imposed and collected by the Authority shall accrue to the Authority and shall be disposed of in accordance with the provisions of this Decree.

Clearly then, the petitioner is a profit-earning corporation; hence, its patrimonial properties are subject to tax.[13]

We reject the petitioner's claim that it is exempt from the payment of real property taxes, considering that it does not use the port facilities and buildings. This Court overruled a similar submission as follows:

Under the Real Property Tax Code, real property is classified for assessment purposes on the basis of actual use, which is defined as "the purpose for which the property is principally or predominantly utilized by the person in possession of the property.

Petitioner argues that it merely operates and maintains the LRT system, and that the actual users of the carriageways and terminal stations are the commuting public. It adds that the public-use character of the LRT is not negated by the fact that revenue is obtained from the latter's operations.

We do not agree. Unlike public roads which are open for use by everyone, the LRT is accessible only to those who pay the required fare. It is, thus, apparent that petitioner does not exist solely for public service, and that the LRT carriageways and terminal stations are not exclusively for public use. Although petitioner is a public utility, it is nonetheless profit-earning. It actually uses those carriageways and terminal stations in its public utility business and earns money therefrom.

...

In any event, there is another legal justification for upholding the assailed CA Decision. Under the Real Property Tax Code, real property “owned by the Republic of the Philippines or any of its political subdivisions and any government-owned or controlled corporation so exempt by its charter, provided, however, that this exemption shall not apply to real property of the abovenamed entities the beneficial use of which has been granted, for consideration or otherwise, to a taxable person.”^[14]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. No costs.

SO ORDERED.

Austria-Martinez, and Chico-Nazario, JJ., concur.

Puno, J., (Chairman), on official leave.

Tinga, J., on leave.

[1] Rollo, p. 6.

[2] Penned by Associate Justice Angelina Sandoval-Gutierrez (now an Associate Justice of the Supreme Court), with Associate Justices Romeo A. Brawner and Martin S. Villarama, Jr., concurring.

[3] *Strait Times, Inc. v. Court of Appeals*, 294 SCRA 714 (1998).

[4] *De la Cruz v. Court of Appeals*, 286 SCRA 230 (1998).

[5] 261 SCRA 667 (1996).

[6] *Id.* at 691-692.

[7] P.D. No. 464 took effect on July 1, 1974.

[8] P.D. No. 857 took effect on December 23, 1975.

[9] Underscoring supplied.

[10] *City Government of San Pablo, Laguna v. Reyes*, 305 SCRA 353 (1999).

[11] *Supra*.

[12] *Id.* at 689-690.

[13] *Light Rail Transit Authority v. Central Board of Assessment Appeals*, 342 SCRA 692 (2000).

[14] *Id.* at 701-702.

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