

## U.S.T. COOPERATIVE STORE, PETITIONER AND APPELLEE, VS. THE CITY OF MANILA AND MARCELINO SARMIENTO, AS TREASURER OF THE CITY OF MANILA, RESPONDENTS AND APPELLANTS.

*G. R. No.-17133. December 31, 1965*

Ponente: MAKALINTAL, J.

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### MAKALINTAL, J.:

This is an appeal by respondents from the decision of the Court of First Instance of Manila ordering them to refund to appellee the sums it had paid to the City of Manila as municipal taxes and license fees for the period beginning July 1957 up to December 1958. The total amount involved is P12,315.10.

The material facts were stipulated by the parties. Appellee is a duly organized cooperative association registered with the Securities and Exchange Commission on March 18, 1947 in accordance with Commonwealth Act No. 565 as amended. Its net assets never exceeded P500.000 during the years 1957, 1958 and 1959. From the time of its registration it was under the jurisdiction of the Cooperative Administration Office.

On June 22, 1957 Republic Act No. 2023, otherwise known as the Philippine Non-Agricultural Cooperative Act, was approved by Congress, amending and consolidating existing laws on non-agricultural cooperatives in the Philippines. The two provisions of said Act which bear on the present case are sections 4(1) and 66(1), which reads as follows:

"Sec. 4(1) Every co-operative under the jurisdiction of the Co-operatives Administration Office existing at the time of the approval of this Act which has been registered under existing cooperative laws (Commonwealth Act five hundred sixty-five, Act Twenty five hundred eight and Act Thirty-four hundred twenty-five, all as amended) shall be deemed to be registered under this Act, and its by-laws shall so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to be registered under this Act."

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"Sec. 66(1) Cooperatives with net assets of not more than five hundred thousand pesos shall be exempt from all taxes and government fees of whatever name and nature except those provided for under this Act: \* \* \*"

Unaware of the exemption provided for in section 66 (1) appellee paid to respondent City of Manila municipal taxes and license fees in the total amount and for the Period already stated. In May 1959 appellee requested a Refund of said amount from the City Treasurer, but the request was denied. Hence the present suit.

Appellants contend that the exemption under section 66(1) does not apply to appellee because the latter was carrying business not only with its members but also with the general public. It may be noted that this fact is not a ground for non-exemption from taxes and license fees. What the law imposes—and that under another section (Sec. 58)—is a restriction to the effect that a cooperative shall not transact business with non-members to exceed that done with members. There is no proof that this restriction has been violated; and in any case, the law does not provide that the penalty for such violation is the non-exemption of the cooperative concerned. All that is required

for purposes of exemption is that the cooperative be registered under Republic Act 2023 and that its net assets be not more than P500,000. On the question of registration, section 4 is clear that every cooperative under the jurisdiction of the Cooperatives Administration Office existing at the time of the approval of this Act which has been registered under existing cooperative laws (as in the case of appellee here) shall be deemed to be registered under this Act.

Appellant next argues that since the taxes and license fees in question were voluntarily paid they can no longer be recovered, as appellee was presumed to know the law concerning its exemption and hence must be considered as having waived the benefit thereof. That the payment was erroneously made there can be no doubt. The error consisted in appellee's not knowing of the enactment of Republic Act No. 2023, which although passed in June 1957 was published only in the issue of the Official Gazette for December of the same year. The following authorities cited by appellee appear to us to be of persuasive force:

"A payment of taxes under a mistake of fact has been not to be voluntary, and is therefore recoverable." (51 Am. 1023)

"On principle, a recovery should be allowed where money is paid under a mistake of fact although such mistake of fact may be induced by a mistake of law, or where there is both a mistake of fact and a mistake of law." (40 Am. Jur. 846)

"When money is paid to another under the influence of a mistake of fact—that is, on the mistaken supposition of the existence of the specific fact which would entitle the other to the money—and it would not have been paid had the person making the payment known that the fact was otherwise, it may be recovered. The ground upon which the right of recovery rests is that money paid through misapprehension of facts belongs, in equity and in good conscience, to the person who paid it." (4 Am. Jur. 514) We find no reason to attribute negligence to appellee in making the payments in question especially considering that the new law involved a change in its status from a taxable to a tax-exempt institution; and if it continued to pay for a time after the exemption became effective it did so in a desire to abide by what it believed to be the law. No undue disadvantage should be visited upon it as a consequence thereof.

The decision appealed from is affirmed, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Dizon, Regala, Bengzon, J. P. and Zaldivar, JJ., concur.

Judgment affirmed.

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