

THE CITY OF BACOLOD, REPRESENTED BY PORFIRIO D. DE LEON IN HIS CAPACITY AS ASSISTANT CITY TREASURER OF BACOLOD CITY, PLAINTIFF AND APPELLEE, VS. LEANDRO GRUET, IN HIS CAPACITY A...

G. R. No. 18290. January 31, 1963

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal from the decision of the Court of First Instance of Negros Occidental (in Civil Case No. 5693) ordering San Miguel Brewery, Inc. (as employer and principal of defendant Leandro Gruet) to pay to plaintiff City of Bacolod the sum of P26,306.54 representing unpaid taxes from July 1, 1959, until the filing of the complaint, plus the tax at P0.03 per case, levied on it by Ordinances Nos. 66 and 150 of its Council, from March 1, 1960 and thereafter, with costs.

The case was submitted on the following Stipulation of Facts:

- That the defendant paid the tax of P0.01 per case of coca cola as required in Section 1, Ordinance No. 66, Series of 1949, of the City of Bacolod .
- That when the said Ordinance No. 66, Series of 1949, was amended by Ordinance No. 150, Series of 1959, which took effect on July 1, 1959, defendant refused to pay the levy made in the latter Ordinance or an additional amount of P0.02, and wrote a letter of protest addressed to the City Mayor of Bacolod, furnishing copy thereof to the City Treasurer. * * *
- That the Coca Cola Plant managed by the defendant Leandro Gruet in this case is already paying a tax on its business to the City of Bacolod in the amount of P100.00 per annum as 'manufacturer of aerated water' under Ordinance No. 48, Series of 1959. * * *
- The parties hereby further stipulate that defendant Gruet, for and in behalf of the. Coca Cola Plant managed by him, has been paying the tax of P100.00 under Ordinance No. 48, since the beginning of its operation in 1948.

* * * * *

On the basis of the foregoing Stipulation of Facts, the Court (on November 12, 1960) rendered the decision above adverted to, which partly reads:

"The main question posed is the validity of Ordinance No. 66, Series of 1949, as amended by Ordinance No. 150, Series of 1959, and there is in essence no quarrel as to the facts.

* * * * *

"From the circumstances that ho has been and is already paying on behalf of the Bacolod Coca Cola Plant an annual tax of P100.00 as 'a manufacturer of aerated water' under Ordinance No. 38, series of 1948, the

defendant squeezes the charge that the fee imposed under Ordinances Nos. 66 and 150 amounts to illegal double taxation; and consequent upon the notion that the City Council of Bacolod has no authority under its Charter and even under Republic Act No. 2264 to levy specific and percentage taxes, he argues that said enactments are ultra vires and void.

"There is manifestly no double 'taxation, because the fee under Ordinance No. 48, Series of 1948, is upon a 'manufacturer of aerated water', or upon a person or entity engaged in the business of manufacturing aerated water, and the tax payable in virtue of Ordinances Nos. 66 and I150 is for the output or bottled product of such person or entity.

"But are these ordinances within the orbit of plaintiff's corporate powers? Conceding that its Charter (Cora. Act No. 326) did not originally license the imposition complained of, the plaintiff has been expressly enabled to do so by Republic Act No, 2264, otherwise known as the Local Autonomy Law, approved on June 19, 1959. It is noteworthy that, under the latter statute, all chartered cities like the plaintiff, are granted authority,' not only 'to impose municipal license taxes or fees upon persons engaged in any occupation or business,' but also 'otherwise to levy for public purposes, just and uniform taxes, licenses or fees'.

"The result is that the plaintiff, in addition to the annual fee of P100.00 collected from the Bacolod Coca Cola Plant as an entity engaged in the aerated water business, may levy the other tax on the finished products, namely, under Ordinance, No. 150 approved on July 10, 1959, three centavos per case of bottled coca cola or soft drinks. The concession to the plaintiffs and all chartered cities for that matter, of the power to impose specific and other taxes, is made more visible by the fact that the only limitation to be found in Section 2 of Republic Act No. 2264, is 'that municipalities and municipal districts shall in no case, impose any percentage tax on sales or other taxes in any form based thereon, nor impose taxes on articles subject to a specific tax, except gasoline, under the provisions of the national internal revenue code. There is thus loss of controlling weight in the pronouncements of the Supreme Court cited by the defendant more or less to the effect that the authority of a city council or municipal board to tax an occupation, or business does not include the power to Impose a tax on specified articles which must stem from a clear grant and cannot be implied, since a municipal corporation, unlike a sovereign state, has no inherent power of taxation.

* * * * *

"The real party defendant herein is San Miguel Brewery, Inc., which, as admitted in the answer, owns and operates the Bacolod Coca Cola Plant, of which the defendant is only the manager. The defect being purely one of form, not affecting the merits of the case, the Court will, as it hereby does, treat San Miguel Brewery, Inc. as the defendant and consider the pleadings correspondingly amended.

"Wherefore, San Miguel Brewery, Inc. is ordered to pay the plaintiff the sum of P26,306.54 and the tax-at the rate of three centavos per case levied in Ordinances' Nos. 66 and 150 from March, 1960, and thereafter. Coats against the defendant.

"SO ORDERED."

His motion for reconsideration of said decision having been denied, appellant Gruet appealed directly to us on questions of law.

On November 29, 1962 , we rendered a decision remanding, the case to the court a quo "for further proceedings giving San Miguel Brewery, Inc. the real party in the interest, found ,toy the trial court, an opportunity to he heard by making it a party defendant", because "the action in this case was prosecuted, not in the name of the real party in interest which, admittedly, is the San Miguel Brewery, Inc. but in the name of Gruet as manager of its Coca Cola Plant at Bacolod City" and "this defect is fatal to the action, as it is violative of the express and mandatory provision of Section 2, Rule 3, of the Rules of Court, to the effect that "Every action must be prosecuted in the name of the real party in interest."

However, on December 11, 1962 , before our said decision became final, counsel for Gruet and San Miguel Brewery, Inc. filed a motion praying that said decision "be reconsidered and/or modified", as follows:

- That the San Miguel Brewery, Inc. be considered impleaded for all purposes necessary for a judgment on the merits in this case;
- That all the evidence and defenses availed of by herein defendant-appellant, except the defense of real party in interest, in this case, be also considered the evidence and defenses of San Miguel Brewery, Inc., as defendant-appellant; and
- That, premises considered, the decision appealed from be set aside, as it has already been set aside, and the plaintiffs' complaint be dismissed, with costs against the plaintiff; that Bacolod City Ordinance No. 66, Series of 1949, and Ordinance No. 150, Series of 1950, be declared null and void for being ultra vires; and that all payments made by the defendants to the plaintiff-appellee under said ordinances be ordered refunded to the San Miguel Brewery, Inc."

Acting on said motion, we issued on December 19, 1962, the following resolution:

"In case G. R. No. L-18290 (City of Bacolod , etc vs. Leandro Gruet, etc), judgment was rendered on November 30, 1962 setting aside the decision appealed from and remanding the case to the court a quo for further proceedings in order to give San Miguel Brewery, Inc., the real party in interest as found by the Court, opportunity to be heard by making it a party defendant, San Miguel Brewery, Inc., through counsel, has now filed a motion, verified by its Assistant Vice-President, submitting itself voluntarily to the jurisdiction of this Court as party defendant, and adopting as its own, all the evidence and defenses presented by defendant-appellant Leandro Gruet, considering itself as impleaded for all purposes necessary for a judgment on the merits in this case. IN VIEW WHEREOF, THE COURT resolved TO set aside the decision of November 30, 1962 and to consider the case newly submitted for decision on the merits, with San Miguel Brewery, Inc. as party defendant-appellant. Justice Padilla took no part."

The only issue to be resolved in this case is whether or not Ordinance No. 66 series 1949 (as amended by Ordinance No. 150, series 1959) of the Bacolod City Council which imposes a tax of P0.03 on every case of bottled Coca Cola manufactured by defendant San Miguel Brewery, Inc. is valid, considering that the latter is already paying to plaintiff Bacolod City P100.00 yearly for its business as "manufacturer of aerated water" required by Ordinance No. 48, series 1949.

Section 2 of Republic Act No. 2264,[1] otherwise known as the Local Autonomy Act, provides :

SEC. 2. Taxation.—Any provision of law to the contrary notwithstanding, all chartered cities, municipalities and municipal districts shall have authority to impose municipal license taxes or fees upon persons engaged in any occupation or business, or exorcising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, In the municipal council of the municipality, or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: Provided, That municipalities and municipal districts shall, in no case, impose any percentage tax on sales or other taxes in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the national internal revenue code. * * *^{Italic supplied})

Under this provision, it seems quite clear that all chartered cities, municipalities, and municipal districts are empowered to impose, not only "municipal license taxes . . . upon persons engaged in any . . . business" (the manufacturer's tax of P100.00 imposed by Ordinance No. 48, series 1949 on herein defendant San Miguel

Brewery, Inc.), but also to "levy for public purposes, just and uniform taxes", except that, pursuant to the express language of the proviso, municipalities and municipal districts (not chartered cities), shall, in no case, impose any percentage tax on sales or other taxes in any form based thereon, nor impose taxes on articles subject to specific tax except gasoline, under the provisions of the National Internal Revenue Code. The P0.03 tax on every case of bottled Coca Cola imposed by the City of Bacolod is, therefore, within its express powers, unlimited by the proviso applicable only to municipalities and municipal districts.

In support of their submission that plaintiff may not by ordinance impose said tax of P0.03 on every case of bottled Coca Cola, defendants cite the cases of *Medina to City of Baguio* (91 Phil., 854, August 29, 1952), *Stanvac vs. Antigua*, (96 Phil., 909, April 30, 1955), and *Wa Yu vs. City of Lipa* (L-9167, September 27, 1956), wherein we held that the authority of a city council or municipal board to tax an occupation or business does not include the power to impose a tax on specific articles. But these cases are inapplicable or no longer controlling, as they, were decided by this Court prior to the enactment of Republic Act No. 2264 on June 19, 1959, which expressly grants to chartered cities the power, not only "to impose municipal license taxes or fees upon persons engaged in any occupation or business" therein, but also "otherwise to levy for public purposes, just and uniform taxes". The ordinance in question imposing the P0.03 tax, clearly comes within the aforementioned second power. Note also that at the time said decisions were rendered, the law then in force was Commonwealth Act No. 472,[2] Section 1 of which reads:

"SEC. 1. A municipal council or municipal district council shall have authority to impose municipal license taxes upon persons engaged in any occupation or business, or exercising privileges in the municipality or municipal district, by requiring them to secure licenses at rates fixed by the municipal council, or municipal district council, and to collect fees and charges for services rendered by the municipality or municipal district and shall otherwise have power to levy for public purposes, and for school purposes, including teachers salaries, just and uniform taxes other than percentage taxes and taxes on specified articles." (Italics supplied.)

It is true that the above-quoted provision also contains the authority to "levy for public purposes, * * * just and uniform taxes", but it immediately qualified the same by adding "other than percentage taxes and taxes on specified articles." Under Republic Act No. 2264, this qualification was expressly eliminated insofar as chartered cities are concerned, and retained only with respect to municipalities and municipal districts. (See Sec. 2 aforequoted.)

For all the foregoing, we are of the opinion and so hold, that Ordinance No. 66, series 1949 (as amended by Ordinance No. 150, series 1959) of the Bacolod City Council is legal and valid.

Wherefore, the decision appealed from is hereby affirmed, with costs against the voluntary defendant-appellant San Miguel Brewery, Inc. So ordered.

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

[1] Effective June 19, 1959 .

[2] Effective June 16, 1939 .

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