

GOLDEN RIBBON LUMBER COMPANY, INC., PLAINTIFF AND APPELLEE, VS. THE CITY OF BUTUAN AND FRANCISCO MAGNO, IN HIS CAPACITY AS CITY TREASURER OF THE CITY OF BUTUAN, DEFENDANTS AND A...

G.R. No. 18534. December 24, 1964

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-18534/>

DIZON, J.:

Appeal taken by the City of Butuan and Francisco Magno as City Treasurer of the City of Butuan, from the decision of the Court of First Instance of Agusan in Civil Case No. 624 declaring void Ordinance No. 5, as amended, of said city, and ordering them to refund to appellee, Golden Ribbon Lumber Company, Inc., the sum of P1,190.92 paid by the latter as tax, under protest, with legal interests thereon from the filing of the complaint until fully paid, and to pay the costs.

Appellee, a duly organized domestic corporation, operated a lumber mill and lumber yard in Butuan City. Pursuant to the provisions of Section 1 of Ordinance No. 5, as amended by Ordinance Nos. 9, 10, 47 and 49 of said city, appellee paid to appellants the taxes provided for therein amounting to the total sum of P2,069.26. Claiming that said ordinance, as amended, was void, it later brought the present action to have it so declared; to recover the amount mentioned heretofore, and to have appellants permanently enjoined from enforcing said ordinance, as amended.

After the denial of their motion to dismiss the complaint on the ground that it did not state a cause of action, appellants filed their answer in which, after making some denials and admissions, they alleged, as affirmative defenses, (a) that the tax assessed under Ordinance No. 5, as amended, is a privilege tax on business and is therefore legal under paragraph p, section 15, Article III of Republic Act No. 523, otherwise known as the Charter of the City of Butuan, and (b) that since the payments were not made under protest, appellee could not ask for their refund. As counterclaim, they also alleged that appellee had incurred tax delinquencies and surcharges as of July, 1957 in the amount of P16,978.44 and additional undetermined taxes from August, 1957 up to and including January 1968 exclusive of interests under Ordinance No. 5, as amended by Ordinance No. 49, Series of 1954.

In its answer to the counterclaim appellee denied the alleged unpaid taxes and interests.

On March 7, 1969 the Court admitted appellants amended answer and counterclaim in which they alleged, inter alia, that after deducting the taxes paid (P2,981.31), there still remained a balance of P33,000.74, representing appellee's tax delinquencies, surcharges and interests of March, 1958. The latter, answering the amended counterclaim, denied such delinquencies etc., amounting to P33,000.74, and further averred that Ordinance No. 5, as amended, being null and void, it cannot be compelled to pay them.

On April 25, 1959, the Court below admitted appellee's amended complaint which merely included for recovery the taxes paid by it under the same ordinance subsequent to the filing of the original complaint.

On February 16, 1960, both parties submitted the following stipulation of facts:

"COMES NOW the plaintiff, assisted by counsel, and the defendants, through its counsel, and to this Honorable Court respectfully submit the following stipulation of facts:

- That plaintiff is a corporation duly organized and existing under the laws of the Philippines, with principal office in the City of Butuan; that the defendant City of Butuan is public corporation created and existing under the laws of the Philippines; and that the other defendant, Francisco Magno, is the City Treasurer of the City of Butuan and has been sued in that capacity only;
- That plaintiff pursuant to the purposes for which it was organize and as a necessary incident to its business, established and operated a lumber yard and/or lumber null situated within the territorial jurisdiction of the City of Butuan;
- That sometime in September, 1960, the defendant City of Butuan enacted and approved, through its Municipal Board, Ordinance No. 5, copy of which is hereto attached as Exhibit 'A' and made part of this stipulation of facts; that said Ordinance No. 5 was subsequently amended by the following ordinances: Ordinance No. 9. Ordinance No. 10. Ordinance No. 47 and Ordinance No. 49. copies whereof are likewise hereto attached as Exhibit 'B', Exhibit 'C', Exhibit 'D' and Exhibit 'E', as integral parts hereof; that the dates of enactment or approval as well as the effectivity of each of the foregoing ordinances are indicated by the provisions thereof;
- That the defendants maintain, that the aforementioned Ordinance No. 5, and all amendments thereto, were enacted by the defendant City of Butuan pursuant to and under the provisions of Republic Act No. 523, as amended, otherwise known us the Charter of the City of Butuan, more particularly Section 15, paragraph (p) thereof;
- That the plaintiff Golden Ribbon Lumber Company, Inc., as a corporation operating a lumber mill and/or lumber yard within the territorial jurisdiction of the defendant City of Butuan, has sawn, manufactured and/or produced a total of 7,310,567 board feet of sawn lumber, irrespective of class, within the period from September, 1956 to March, 1958, inclusive;
- That the plaintiffs corporation has been assessed by the defendants under and pursuant to the provisions of the aforesaid Ordinance No. 5, as amended, and was found delinquent in the payment of its tax liabilities including surcharges in the total sum of P36,552.84 for the period from September, 1956 to March, 1958. inclusive;
- That out of the aforestated tax liabilities and surcharges assessed against the plaintiff corporation by the defendants pursuant to the provisions of Ordinance No. 5, as amended, said plaintiff has paid to the defendant City of Butuan, through its co-defendant the , City Treasurer, the total sum of P2,982.11 only, broken down as follows:

Date of Payment

Receipt No.

Amount Paid

October 24, 1957 E-0385101

P1,000.00

November 25, 1957 E-0387039

180.89

February 10, 1958 E-0394669

110.30

March 11, 1958 H-6506335

500.00

May 14, 1958 E-2941534

1,190.92

 Total
P2,982.11

thereby leaving still unpaid the amount of P33,570.73, pursuant to assessment;

- That among the payments stilted in the next preceding paragraph, only the last payment that made on May 14, 1958 in the amount of P1,190.92 was made under protest;

- That defendants have repeatedly demanded from plaintiff payment or the aforesaid taxes, claiming that such have been long due and payable under the provisions of Ordinance No. 5, as amended, but plaintiff refused and still refuses to make payments up to the present, except those mentioned In paragraph 7 of this Stipulation of Facts:

- That, on the other hand, plaintiff since May 1958 has demanded that defendants cease and desist from enforcing the provisions of Ordinance No. 5, as amended, but defendants refused and still refuse to comply with said plaintiff's demand:

- That there is no question of fact involved In this case and that the only legal question for this Court to decide and resolve is: (1) whether or not Ordinance No. 5, as amended is valid and legal and that whether or not the plaintiff's corporation is legally bound to pay the taxes provided for in said ordinance in question: and (2) whether or not payments made without protest In case of decision in favor of the plaintiff is subject to reimbursement.

PRAYER

WHEREFORE, the parties herein respectfully pray this Honorable Court to approve the foregoing Stipulation or Facts and to make it the basis for a decision on the issues raised by the pleadings.

It is further respectfully prayed that both parties be granted thirty (30) days from receipt of notice of approval of the foregoing Stipulation of Facts within which to file simultaneously their respective memoranda, and fifteen (15) days from receipt of the other party's memorandum within which to file a reply thereto, and thereafter, the case shall be deemed submitted for decision."

On February 28, 1961, the lower court rendered the appealed judgment which appellants seek to have Us reversed, claiming that the lower court erred in holding (a) that the tax imposed by said Ordinance No. 5, as amended, is a sales tax on the sawn, manufactured or produced lumber, which are forest products, and in further ruling (b) that said ordinance was ultra vires and therefore, null and void.

The principal issue to be resolved is whether Ordinance No. 5, as originally approved or as later amended the pertinent part of which reads as follows:

"AN ORDINANCE IMPOSING A TAX ON LUMBER MILLS"

"SECTION 1.-Every person, association or corporation operating a lumber mill and/or lumber yard within the territory of the fifty of Butuan shall pay to the city a tax of two-fifths. (P.004) centavo for very board foot of lumber sawn, manufactured and/or produced (regardless of group). The tax shall be paid within the first twenty (20) days of the following month. If the tax is not paid within the time herein prescribed, there shall be added to the unpaid amount a surcharge of ten per centum (10%) every month or fractional part thereof, but in no case shall the total surcharge exceed twenty-five per centum (25%)."

"SEC. 2. It shall be the duty of every person, association or corporation operating a lumber mill to submit to the City Treasurer within the first fifteen (15) days of every month a sworn statement of the number of board feet sawn, manufactured or produced by it during the preceding month."

falls within the provision of paragraph 5, Section 15 of Republic Act No. 523, which empowers the municipal board of the City of Butuan:

"To tax, fix the license fee for, regulate the business and fix the location of match factories, blacksmith shops, foundries, steam boilers, lumber mills and lumber yards, shipyards, the storage and sale of gunpowder, tar pitch, resin, coal oil, gasoline, benzine turpentine, hemp, cotton, nitroglycerine, petroleum, or any of the products thereof, and of all other highly combustible or explosive materials and other establishment likely to endanger the public safety or give rise to conflagrations or explosions, and subject to the rules and regulations issued by the Director of Health in accordance with law, tanneries, renderies, tallow chandeleries, embalmers, and funeral parlors, hone factories, and snap factories"

Appellee contends that the questioned ordinance imposed a tax, not on lumber mills and lumber yards, but on the sawn, manufactured and/or produced lumber, which are forest products and not found among the taxable items enumerated in the law above quoted, this rendering; said ordinance null and void. It argues further that, even under the latest amendment. Ordinance No. 49, series of 1954, which purports to impose the tax not on lumber sold but on lumber sawn, manufactured and/or produced-the ordinance is ultra vires because par. (p) Section 15 of the Charter of the City of Butuan (quoted above), authorizes a tax only on lumber mills and lumber yards, which obviously does not include the power to impose a tax on sawn, manufactured or produced lumber.

Upon the other hand, appellants maintain that the tax in question is a license or privilege tax on the business of lumber mill or lumber yards imposed by appellant city in the exercise of its police power under Section 15 of its Charter.

The title given to the original ordinance in question was "an ordinance imposing a tax on the sales of lumber". Section 1 thereof made the tax collectible on "every board foot of lumber sold" by every person, association or corporation operating a lumber mill within the territory of the City of Butuan, while Section 4 expressly exempted lumber mills from the payment of the quarterly sales tax provided for in Section 3, Article II of Ordinance No. 47. Series of 1949.

The above would seem to be sufficient to show that the tax imposed is and was really intended to be on lumber mill and not in tax on, or license fee for the privilege of operating a lumber mill and/or a lumber yard.

The amendatory ordinances did not change the nature of the tax imposed by the original. Ordinance No. 9 simply changed the title of the latter so as to make it read as an ordinance imposing a tax on the "produce of lumber mills"; Ordinance No. 10, while entitled as one imposing a tax on lumber mill made the tax collectible on "every board foot of lumber, regardless of group, pawn, manufactured or produced, etc."; Ordinance No. 47, in turn, made the tax collectible on "every board foot of lumber sold and/or shipped"; Ordinance No. 49, while changing again the title of the original ordinance so as to make it read as "An ordinance imposing a tax on lumber mills", also required the tax to be paid "for every board foot of lumber sawn, manufactured and/or produced, etc."

The clear implication from the original as well as the amendatory ordinances is that the tax imposed is one on lumber sold, manufactured, sawn, or produced by parties duly licensed to engage in said trade or business. As the lower court said and this we quote with approval-

"The intent of Ordinance No. 5 to tax the sale of lumber is clear and unmistakable. The subsequent Ordinances Nos. 9, 10, 47 and 49, Exhs. B, C, D, and E, respectively, being all amendatory naturally did not alter the essence or spirit of the basic ordinance. This is evident, if we consider that Section 4 of the original ordinance which exempts lumber mills from the payment of quarterly sales tax, as provided in an earlier ordinance, was never repealed and instead was carried over and continued to be in force until the latest amendment."

Moreover, the tax thus levied is virtually one on "forest products", since manufactured or sawn lumber is so considered under the provisions of Section 263, National Internal Revenue Code, which is embraced in Chapter V thereof entitled "Charges on Forest Products", as construed by Section VI, Regulation No. 85, Department of Finance. Municipal corporations are prohibited from imposing charges or taxes of such nature (Commonwealth Act No. 472, Section 3, Republic Act No. 2264).

Appellant's claim that the questioned tax is one on business privilege tax for the operation of a lumber mill or a lumber yard is without merit.

The character or nature of a tax is determined not by the title of the act or ordinance imposing it but by its operation, practical results and incidents (*Dawson vs. Dietleries, etc.*, 255 U.S. 288, 65 L. Ed. 638; *Association of Customs Brokers, Inc. et al., vs. The Municipal Board et al.*, G. R. No. L-4376, May 22, 1953).

Neither the original ordinance in question nor the amendatory ones show that the tax provided for therein is imposed by reason of the enjoyment of the privilege to engage in a particular trade or business. Neither do they provide that payment thereof is a condition precedent to the employment of such privilege or that its non-payment would result in the cancellation of any previous license granted. The only consequence of its non-payment appears to be the imposition of a surcharge or liability to suffer the penal sanctions prescribed in Section 3 of the original ordinance. These circumstances lead us to the conclusion that the questioned tax cannot be considered as one imposed upon a party for engaging in the business of operating a lumber mill or a lumber yard.

We likewise find to be unmeritorious appellants' contention that the power of the City of Butuan to tax lumber mills and lumber yards includes the power to tax the sale, production, sawing and/or manufacture of lumber by them. The rule is well-settled that municipal corporations, unlike sovereign states, are clothed with no inherent power of taxation; that its charter or a statute must clearly show an intent to confer that power or the municipal corporation cannot assume and exercise it, and that any such power granted must be construed strictly, any doubt or ambiguity arising out from the terms of the grant to be resolved against the municipality. (*Cu Unjieng vs. Patatone*, 42 Phil. 818; *Vega et al., vs. Municipal Board, etc.*, 50 Off. Gaz., No. 6, p. 2456).

Lastly, appellants' contention that appellee had no cause of action because it does not appear that the taxes sought to be recovered were paid under protest is also untenable. The present action involves only the recovery of the sum of P1,190.92 which was paid under protest (paragraph 8, Stipulation of Facts, p. 53, Record on Appeal).

IN VIEW OF ALL THE FOREGOING, the appealed decision is hereby affirmed, with costs.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ. concur.

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.