

THE MUNICIPALITY OF COMPOSTELA, CEBU, PLAINTIFF-APPELLEE, VS. THE NATIONAL WATERWORKS AND SEWERAGE AUTHORITY, DEFENDANT-APPELLANT.

G.R. No. 21763, December 17, 1966

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by the National Waterworks and Sewerage authority — hereinafter referred to as NAWASA — from a decision of the Court of First Instance of Cebu, the dispositive part of which reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered:

(1) Declaring the plaintiff Municipality of Compostela the true, lawful and exclusive owner and possessor of the waterworks system in question, with the concomittant legal attributes of ownership, such as possession, administration, jurisdiction, supervision, operation and control over the same;

(2) Ordering the defendant Authority to restore to the plaintiff Municipality of Compostela the ownership, supervision, jurisdiction, administration, possession, operation and control of the waterworks system in question upon payment to the latter of the amount of P8,000.00, representing the value of the necessary and useful improvements introduced in the aforesaid waterworks system from the time that defendant Authority took possession and adminis- tration thereof;

(3) Ordering the herein plaintiff Municipality of Compostela to pay to the herein defendant Authority the sum of P8,000.00, representing the value of the necessary and useful improvements that it has introduced in the waterworks system in question."

Sometime in 1940, plaintiff herein, the Municipality of Compostela, Province of Cebu, secured a P30,000 loan from the National Markets and Waterworks Fund, for the construction of a waterworks system within said municipality, pursuant to Commonwealth Act No. 403. The construction was completed in December, 1940, and the system began to operate since January, 1941. As of the year 1953, the municipality had paid, on said pre-war loan, the sum of P8,889.29, as interest, and P192.10, as principal, thereby leaving a balance of P29,607.90, payment of which was later assumed by the National Government.

In March, 1956, the NAWASA, purporting to act pursuant to Republic Act No. 1383, approved on June 18, 1955, assumed the administration, operation and maintenance of said waterworks system, without the consent of plaintiff, which instituted the present action on October 25, 1960, to recover the ownership, possession, operation, jurisdiction, supervision and control over the aforementioned system, with the result adverted to above. Hence, this appeal by the NAWASA.

Appellant maintains that the waterworks system in question belongs to the National Government, because funds thereof had been used in the construction of the system. Said funds had been lent, however, to the plaintiff, which thereby became the owner thereof and, hence, of the system constructed therewith, subject to the corresponding

obligation to pay the National Government. Surely, no such obligation would have existed had the system belonged, at the time of its construction, to the National Government. Although the municipality was, later, relieved of said obligation, this was due to its condonation by the National Government. Indeed, this condonation necessarily implied that the National Government was plaintiff's creditor, a legal relation which could not have possibly existed had the system belonged, since its establishment in 1940, to the National Government.

The alleged sufficiency of Republic Act No. 1383 to justify the action taken by the NAWASA has been overruled by this Court in *City of Baguio vs. NAWASA* (57 Off. Gaz. 1584), *City of Cebu vs. NAWASA*, L-12892 (April 20, 1960), *Naguilian vs. NAWASA*, L-18540 (November 29, 1963), and *La Carlota vs. NAWASA*, L-20232 (September 30, 1964), in which we held that the National Government can not appropriate patrimonial property of municipal corporations without just compensation and due process of law. As a consequence, neither may the National Government assume the power of administration of patrimonial property of municipal corporations, if such action is based upon the aforementioned appropriation of said property by the State, in fact, it may not, by operation of law, assume such administration, without appropriating the title to the property, if the same or the income derived from its operation will be comingled with or other property, either of the National Government/of other municipal corporations, in such a way as to permit the use of the property or income belonging to one of such corporations,[1]for the benefit of another municipal corporation or of the State itself.[2]

Appellant, likewise, questions plaintiff's authority to fix and collect fees for the water supplied by its waterworks system, but such authority is clearly deducible from Sections 2317 and 2308(f) of the Revised Administrative Code, as well as from Section 2 of Republic Act No. 2264.[3]

WHEREFORE, the decision appealed from should be, as it is hereby affirmed, with costs against appellant NAWASA.

IT IS SO ORDERED.

Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.
Ruiz Castro, J., took no part.

[1] Because it was derived from the operation of its patrimonial property.

[2] 37 Am. Jur. p. 700; 62 C.J.S. p. 348; 38 Am. Jur. pp. 97-98; 103 A.L.R. p. 579.[3]"Municipal waterworks. - A municipal council shall have authority to acquire, construct, and maintain waterworks for the purpose of supplying the inhabitants of the municipality with water; to regulate the supply and use of water therefrom; and to fix and collect rents for water thus supplied." (Sec. 2317, Rev. Adm. Code.)

"Miscellaneous Revenue. - The following species of revenues shall accrue to the respective municipalities:
X X X X

"(f) Proceeds on income from the sale, use, or management of any property lawfully held by the municipality." (Sec. 2308(f), Rev. Adm. Code.)

"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 exercising 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, 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, x x x". (Rep. Act No. 2264.)

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