NATIONAL COAL COMPANY, PLAINTIFF AND APPELLEE, VS. THE COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.

G.R. No. 22619. December 02, 1924

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was brought in the Court of First Instance of the City of Manila on the 17th day of July, 1923, for the purpose of recovering the sum of P12,044.68, alleged to have been paid under protest by the plaintiff company to the defendant, as specific tax on 24,089.3 tons of coal. Said company is a corporation created by Act No. 2705 of the Philippine Legislature for the purpose of developing the coal industry in the Philippine Islands and is actually engaged in coal mining on reserved lands belonging to the Government. It claimed exemption from taxes under the provisions of sections 14 and 15 of Act No. 2719, and prayed for a judgment ordering the defendant to refund to the plaintiff said sum of P12,044.68, with legal interest from the date of the presentation of the complaint, and costs against the defendant.

The defendant answered denying generally and specifically all the material allegations of the complaint, except the legal existence and personality of the plaintiff. As a special defense, the defendant alleged (a) that the sum of P12,044.68 was paid by the plaintiff without protest, and (b) that said sum was due and owing from the plaintiff to the Government of the Philippine Islands under the provisions of section 1496 of the Administrative Code, and prayed that the complaint be dismissed, with costs against the plaintiff.

Upon the issue thus presented, the case was brought on for trial. After a consideration of the evidence adduced by both parties, the Honorable Pedro Concepcion, judge, held that the words "lands owned by any person, etc.," in section 15 of Act No. 2719 should be understood to mean "lands held in lease or usufruct," in harmony with the ether provisions of said Act; that the coal lands possessed by the plaintiff, belonging to the Government, fell within the provisions of section 15 of Act No. 2719; and that a tax of P0,04 per ton of 1,016 kilos on each ton of coal extracted therefrom, as provided in said section, was the only tax which should be collected from the plaintiff; and sentenced the defendant to refund to the plaintiff the sum of P11,081.11 which is the difference between the amount collected under section 1496 of the Administrative Code and the amount which should have been collected under the provisions of said section 15 of Act No. 2719. From that sentence the defendant appealed, and now makes the following assignments of error:

- The court below erred in holding that section 15 of Act No. 2719 does not refer to coal lands owned by persons and corporations.

- The court below erred in holding that the plaintiff was not subject to the tax prescribed in section 1496 of the Administrative Code.

The question confronting us in this appeal is whether the plaintiff is subject to the taxes under section 15 of Act No. 2719, or to the specific taxes under section 1496 of the Administrative Code.

The plaintiff corporation was created on the 10th day of March, 1917, by Act No. 2705, for the purpose of developing the coal industry in the Philippine Islands, in harmony with the general plan of the Government to encourage the development of the natural resources of the country, and to provide facilities therefor. By said Act, the company was granted the general powers of a corporation "and such other powers as may be necessary to enable it to prosecute the business of developing coal deposits in the Philippine Islands, and of mining, extracting, transporting and selling the coal contained in said deposits," (Sec. 2, Act No. 2705.) By the same law (Act No. 2705) the Government of the Philippine Islands is made the majority stockholder, evidently in order to insure proper governmental supervision and control, and thus to place the Government in a position to render all possible encouragement, assistance and help in the prosecution and furtherance of the company's business.

On May 14, 1917, two months after the passage of Act No. 2705, creating the National Coal Company, the Philippine Legislature passed Act No. 2719 "to provide for the leasing and development of coal lands in the Philippine Islands." On October 18, 1917, upon petition of the National Coal Company, the Governor-General, by Proclamation No. 39, withdrew "from settlement, entry, sale or other disposition, all coal-bearing public lands within the Province of Zamboanga, Department of Mindanao and Sulu, and the Island of Polillo, Province of Tayabas." Almost immediately after the issuance of said proclamation the National Coal Company took possession of the coal lands within the said reservation, with an area of about 400 hectares, without any further formality, contract or lease. Of the 30,000 shares of stock issued by the company, the Government of the Philippine Islands is the owner of 29,809 shares, that is, of 991/3 per centum of the whole capital stock.

If we understand the theory of the plaintiff-appellee, it is, that it claims to be the owner of the land from which it has mined the coal in question and is therefore subject to the provisions of section 15 of Act No. 2719 and not to the provisions of section 1496 of the Adminisrative Code. That contention of the plaintiff leads us to an examination of the evidence upon the question of the ownership of the land from which the coal in question was mined. Was the plaintiff the owner of the land from which the coal in question was mined ? If the evidence shows the affirmative, then the judgment should be affirmed. If the evidence shows that the land does not belong to the plaintiff, then the judgment should be reversed, unless the plaintiff's rights fall under section 3 of said Act.

The only witness presented by the plaintiff upon the question of the ownership of the land in question was Mr. Dalmacio Costas, who stated that he was a member of the board of directors of the plaintiff corporation; that the plaintiff corporation took possession of the land in question by virtue of the proclamation of the Governor-General, known as Proclamation No. 39 of the year 1917; that no document had been issued in favor of the plaintiff corporation; that said corporation had received no permission from the Secretary of Agriculture and Natural Resources; that it took possession of said lands covering an area of about 400 hectares, from which the coal in question was mined, solely, by virtue of said proclamation (Exhibit B, No. 39). Said proclamation (Exhibit B) was issued by Francis Burton Harrison, then Governor-General, on the 18th day of October, 1917, and provided: "Pursuant to the provision of section 71 of Act No. 926, I hereby withdraw from settlement, entry, sale, or other disposition, all coal-bearing public lands within the Province of Zamboanga, Department of Mindanao and Sulu, and the Island of Polillo, Province of Tayabas." It will be noted that said proclamation only provided that all coal-bearing public lands within said province and island should be withdrawn from settlement, entry, sale, or other disposition. There is nothing in said proclamation which authorizes the plaintiff or any other person to enter upon said reservations and to mine coal, and no provision of law has been called to our attention, by virtue of which the plaintiff was entitled to enter upon any of the lands so reserved by said proclamation without first obtaining permission therefor.

The plaintiff is a private corporation. The mere fact that the Government happens to be a majority stockholder does not make it a public corporation. Act No. 2705, as amended by Act No. 2822, makes it subject to all of the

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provisions of the Corporation Law, in so far as they are not inconsistent with said Act (No. 2705). No provisions of Act No. 2705 are found to be inconsistent with the provisions of the Corporation Law. As a private corporation, it has no greater rights, powers or privileges than any other corporation which might be organized for the same purpose under the Corporation Law, and certainly it was not the intention of the Legislature to give it a preference or right or privilege over other legitimate private corporations in the mining of coal. While it is true that said proclamation No. 39 withdrew "from settlement, entry, sale, or other disposition of coal-bearing public lands within the Province of Zamboanga * * * and the Island of Polillo," it made no provision for the occupation and operation by the plaintiff, to the exclusion of other persons or corporations who might, under proper permission, enter upon and operate coal mines.

On the 14th day of May, 1917, and before the issuance of said proclamation, the Legislature of the Philippine Islands in "an Act for the leasing and development of coal lands in the Philippine Islands" (Act No. 2719), made liberal provisions for the encouragement of the coal mining industry. Section 1 of said Act provides: "Coal-bearing lands of the public domain in the Philippine Islands shall not be disposed of in any manner except as provided in this Act," thereby giving a clear indication that no "coal-bearing lands of the public domain" had been disposed of by virtue of said proclamation.

Neither is there any provision in Act No. 2705 creating the National Coal Company, nor in the amendments thereof found in Act No. 2822, which authorizes the National Coal Company to enter upon any of the reserved coal lands without first having obtained permission from the Secretary of Agriculture and Natural Resources.

The following propositions are fully sustained by the facts and the law:

(1) The National Coal Company is an ordinary private corporation organized under Act No. 2705, and has no greater powers nor privileges than the ordinary private corporation, except those mentioned, perhaps, in section 10 of Act No. 2719, and they do not change the situation here.

(2) It mined on public lands between the month of July, 1920, and the month of March, 1922, 24,089.3 tons of coal.

(3) Upon demand of the Collector of Internal Revenue it paid a tax of P0.50 a ton, as taxes under the provisions of article 1496 of the Administrative Code on the 15th day of December, 1922.

(4) It is admitted that it is neither the owner nor the lessee of the lands upon which said coal was mined.

(5) The proclamation of Francis Burton Harrison, Governor-General, of the 18th day of October, 1917, by authority of section 1 of Act No. 926, withdrawing from settlement, entry, sale, or other disposition all coal-bearing public lands within the Province of Zamboanga and the Island of Polillo, was not a reservation for the benefit of the National Coal Company, but for any person or corporation of the Philippine Islands or of the United States.

(6) That the National Coal Company entered upon said land and mined said coal, so far as the record shows, without any lease or other authority from either the Secretary of Agriculture and Natural Resources or any person having the power to grant a leave or authority.

From all of the foregoing facts we find that the issue is well defined between the plaintiff and the defendant. The plaintiff contends that it was liable only to pay the internal National Coal Co. vs. Collector of Internal Revenue revenue and other fees and taxes provided for under section 15 of Act No. 2719; while the defendant contends, under the facts of record, that the plaintiff is obliged to pay the internal revenue duty provided for in section 1496 of the Administrative Code. That being the issue, an examination of the provisions of Act No. 2719 becomes

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necessary.

An examination of said Act (No. 2719) discloses the following facts important for consideration here:

First. All "coal-bearing lands of the public domain in the Philippine Islands shall not be disposed of in any manner except as provided in this Act."

Second. Provisions for leasing by the Secretary of Agriculture and Natural Resources of "unreserved, unappropriated coal-bearing public lands," and the obligation to the Government which shall be imposed by said Secretary upon the lessee.

Third. The internal revenue duty and tax which must be paid upon coal-bearing lands owned by any person, firm, association or corporation.

To repeat, it will be noted, first, that Act No. 2719 provides an internal revenue duty and tax upon unreserved, unappropriated coal-bearing public lands which may be leased by the Secretary of Agriculture and Natural Resources ; and, second, that said Act (No. 2719) provides an internal revenue duty and tax imposed upon any person, firm, association or corporation, who may be the owner of "coal-bearing lands." A reading of said Act clearly shows that the tax imposed thereby is imposed upon two classes of persons only—lessees and owners.

The lower court had some trouble in determining what was the correct interpretation of section 15 of said Act, by reason of what he believed to be some difference in the interpretation of the language used in Spanish and English. While there is some ground for confusion in the use of the language in Spanish and English, we are persuaded, considering all the provisions of said Act, that said section 15 has reference only to persons, firms, associations or corporations which had already, prior to the existence of said Act, become the owners of coal lands. Section 15 cannot certainly refer to "holders or lessees of coal lands" for the reason that practically all of the other provisions of said Act has reference to lessees or holders. If section 15 means that the persons, firms, associations, or corporations mentioned therein are holders or lessees of coal lands only, it is difficult to understand why the internal revenue duty and tax in said section was made different from the obligations mentioned in section 3 of said Act, imposed upon lessees or holders.

From all of the foregoing, it seems to be made plain that the plaintiff is neither a lessee nor an owner of coal-bearing lands, and is, therefore, not subject to any other provisions of Act No. 2719. But, is the plaintiff subject to the provisions of section 1496 of the Administrative Code?

Section 1496 of the Administrative Code provides that "on all coal and coke there shall be collected, per metric ton, fifty centavos." Said section (1496) is a part of article 6, which provides for specific taxes. Said article provides for a specific internal revenue tax upon all things manufactured or produced in the Philippine Islands for domestic sale or consumption, and upon things imported from the United States or foreign countries. It having been demonstrated that the plaintiff has produced coal in the Philippine Islands and is not a lessee or owner of the land from which the coal was produced, we are clearly of the opinion, and so hold, that it is subject to pay the internal revenue tax under the provisions of section 1496 of the Administrative Code, and is not subject to the payment of the internal revenue tax under section 15 of Act No. 2719, nor to any other provisions of said Act.

Therefore, the judgment appealed from is hereby revoked, and the defendant is hereby relieved from all responsibility under the complaint. And, without any finding as to costs, it is so ordered.

Street, Malcolm, Avancena, Villamor, Ostrand, and Romualdez, JJ., concur.

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