

The case was submitted upon the following stipulated facts:

"It is agreed by and between the parties in the above entitled action:

"That the plaintiff is a resident of the City of Manila, Philippine Islands; that the defendant is the duly appointed, qualified, and acting treasurer of the Province of Mindoro, Philippine Islands.

"That, under the provisions of Act No. 926, the plaintiff is the lessee of a parcel of land of the public domain, situated in the barrio of Pandurucan, municipality of San Jose, Province of Mindoro, Philippine Islands, and described in the lease marked Exhibit A attached to the complaint.

"That for the years 1920, 1921, 1922, and 1923, the said land was assessed for taxation purposes by the provincial assessor of said province and taxes levied and paid thereon under protest by plaintiff as follows:

"Year

Tax

Penalty

Total

Date of Payment

1920

P94.05

P37.62

P131.67

]

1921

94.05

37.62

131.67

]Dec. 28, 1922.

1922

73.15

14.63

87.78

]

1923

73.15

73.15

May 31, 1923.

"334.40

89.87

424.27"

The lower court rendered judgment for the plaintiff, from which the defendant appeals, contending, first, that it erred in not holding that the lands are subject to taxation, and, second, that Act No. 926, under whose provisions the lease was executed constitutes a contract between the plaintiff and the Government of the Philippine Islands, and it is evident that such a contract could not subsequently be modified without the consent of the lessee and to his damage, and, third, because Act No. 926 does not contain any clause whereby the plaintiff is bound to pay land tax on the leased land, and considering that section 113 of Act No. 2874 only took effect after the contract of lease between the said parties became effective, it is obvious that the plaintiff cannot be compelled to pay the land tax demanded by the defendant, so much so that on the dates or years to which said taxes correspond, the contract of lease had not yet expired, and, fourth, in holding that the plaintiff does not come under the provisions of section 113 of Act No 2874, and in rendering judgment for the plaintiff.

JOHNS, J.:

It is conceded that the Government is the owner of the land in question and that it was leased by the Government to the plaintiff under the provisions of Public Land Act No. 926.

Among other things, section 344 of the Administrative Code provides:

"Property exempt from tax.—The exemptions shall be as follows:

"(a) Property owned by the United States of America, the Government of the Philippine Islands, or by any province or municipality in the Philippine Islands."

In the case of *Manila Trading & Supply Co. vs. City of Manila* (45 Phil., 400), this court held that a lessee, under the terms and provisions of Act No. 1654, must pay taxes on the leased land.

Among other things, Act No. 1654 provides:

"Every such lease shall also contain a provision for the payment of the tax or taxes levied on said land or improvements and providing that upon the failure of the lessee to pay any such tax or taxes or any part thereof the lease shall forthwith cease and determine."

That Act further provides:

"All lands leased under the provisions of the foregoing sections of this Act, and all improvements thereon, shall be subject to local taxation against the lessees, their heirs, executors, administrators, successors, or assigns, to the same extent as if such lessees, their heirs, executors, administrators, successors, or assigns, were the owners of both land and improvements."

There are no such provisions in Act No. 926. Neither is there any covenant or agreement in plaintiff's lease.

In construing Act No. 1654, we held:

"When the plaintiff applied for and obtained its lease, the covenant to pay the taxes was one of the considerations for, and which entered into, the execution of the lease, and was a condition precedent to obtaining the lease."

The converse of that proposition is also true that where lands of the public domain are leased at a stipulated rental and the lease does not contain any provisions for the payment of the taxes by the lessee, it must follow that the exemption from the payment of taxes is one of the considerations for the leasing of the land at the stipulated rental. In other words, if, under the terms of the lease, the lessee was required to pay taxes on the land, the amount of such taxes would be deducted from the stipulated rental. The fact that section 344 provides that property owned by the Government of the Philippine Islands is exempt from taxation, throws the burden upon the Government to prove that the lessee of such lands should pay taxes on the leased land. Hence, in the absence of some covenant or contract to pay taxes, a lessee under Act No. 926 is not liable for the payment of taxes.

The judgment of the lower court is affirmed, without costs. So ordered.

Johnson, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

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