

**BATANGAS TRANSPORTATION CO., PLAINTIFF AND APPELLEE, VS.
PROVINCIAL TREASURER OF BATANGAS, MUNICIPAL COUNCIL OF
BATANGAS, BATANGAS, AND MUNICIPAL TREASURER OF
BATANGAS, DEFENDAN...**

G.R. No. 28863. October 11, 1928

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The municipal council of Batangas, in the regular session of June 20, 1924, passed municipal ordinance No. 7, series of 1924, a complete copy of which is attached to the complaint, imposing taxes on garages. When said ordinance went into effect, the plaintiff Batangas Transportation Co. was required to pay, and did pay under protest, the sum of P405 as garage tax. Later, the plaintiff filed his action claiming the return of the sum paid on the ground that the said municipal ordinance is null and illegal.

After the case was set for hearing upon its merits, the parties submitted to the court the following stipulation.

"STIPULATION

"Come now the parties in the above entitled case through their respective attorneys, and to the honorable court hereby submit the following stipulation of facts:

"1. That the plaintiff, Batangas Transportation Company, is a corporate entity duly organized and existing under and by virtue of the laws of the Philippine Islands, with its main office in the municipality of Batangas, Province of Batangas, P. I., and is at present engaged in the operation, as a common carrier, of an auto-truck service for the transportation of passengers and freight in Batangas by virtue of the certificate of public convenience duly issued by the Public Service Commission of the Philippine Islands. That the plaintiff has a garage in the municipality of Batangas for its trucks and automobiles, which it uses on the public highways of the province, for the purpose of the business in which it is engaged, in which garage are housed, cared for, and repaired, said trucks and automobiles when not in use.

"2. That the defendants are officers and employees duly appointed as specified in the complaint.

"3. That on or about June 20, 1924, the defendant municipal council approved and promulgated an ordinance known as Ordinance No. 7, series of 1924, of the municipality of Batangas, of which Exhibit A of the plaintiff is a correct copy.

"4. That in pursuance of said ordinance, of which Exhibit A is an exact copy, the defendants classified the plaintiff's garage in Batangas, as above stated, as a second class garage, and therefore levied upon said garage the tax corresponding to second class garages imposed on July 1, 1924, and later collected the sum of P393.75 from the plaintiff, corresponding to the tax for the period from July 1, 1924 to January 21, 1926, inclusive, plus a penalty of P11.25 imposed in the same manner, which sums the plaintiff paid under protest.

"5. That when the plaintiff's motor vehicles are being used and in operation in conformity with the routes

approved by the Public Service Commission (Public Utility Commission), they cannot be hired in the plaintiff's garage, but must continue operating on the routes to receive passengers and freight as specified by the Commission, returning to the plaintiff's garage to be housed, inspected, cleaned, repaired and made fit and ready to be used again upon their respective routes. The plaintiff owns 23 T. P. U. motor trucks and 2 P. U. cars. Of the 23 trucks, 17 are in operation and 6 are in reserve. Of the T. P. U. trucks one in use and 6 in reserve are kept at night in the municipality of Batangas; of those that are in use one is kept at night in Nasugbu, 2 in Palico, one in Balayan, 3 in Lemery, 3 in Taal, one in Cuenca, 3 in Bolbok, one in Lipa, and one in Santo Tomas.

"6. That the two aforementioned P. U. automobiles are Dodge cars, kept in the plaintiff's garage to be hired by the hour in conformity with the tariff fixed by the Public Service Commission, and form a part of the plaintiff's equipment authorized by the Public Service Commission.

"7. That in addition to operating these motor vehicles as a common carrier as above-mentioned, the plaintiff authorizes special trips to be taken by such trucks or motor vehicles by persons or groups of persons, at their request, but in no case does the plaintiff authorize more than 10 vehicles to be so utilized. Such trips are along the routes authorized by the Commission, for which the regular fare is charged.

"8. That the defendants or any of them have not reimbursed the plaintiff in the sum of P405 nor any part thereof.

"Batangas, Batangas, P. I., August 18, 1927.

"Respectfully submitted,

(Sgd.) "L. D. LOCKWOOD

"Attorney for the plaintiff

(Sgd.) "SIXTO DE LA COSTA

"Provincial Fiscal

"Counsel for the defendants"

In view of the foregoing stipulation of facts, the trial court adjudged: (a) That municipal ordinance No. 7, series of 1924, approved on June 20, 1924 by the municipal council of Batangas is null and void, and was passed without authority; (b) ordering the defendants or such of them as may have under his control or in his possession the sum of four hundred five pesos (P405), collected from the plaintiff as tax under the ordinance here held to be illegal, to return said sum to the plaintiff company; and (c) further ordering the defendants or their agents or representatives to refrain from enforcing or carrying into effect the ordinance here held to be illegal, or from collecting the taxes provided therein. Without special pronouncement as to costs.

In behalf of the defendants, the provincial fiscal of Batangas appealed from the judgment of the trial court, alleging that the latter erred in holding that municipal ordinance No. 7, series of 1924, of the municipal council of Batangas, is null and unlawful, said council being without authority to enact the same, and in ordering the defendants to return the sum of P405, collected as tax thereunder to the plaintiff company.

The authority invoked by the municipal council of Batangas to pass the municipal ordinance in question is that contained in section 2307, subsection (e), of the Administrative Code, which says:

"A municipal council shall have authority to impose taxes upon persons engaged in business or exercising privileges in the municipality as hereinbelow specified, by requiring them to procure licenses at rates fixed by ordinance of the council:

"Garages where motor vehicles are kept for hire."

The word "garage" has been defined by the Philippine Legislature in the Automobile Law, No. 3045, as follows:

"* * * (i) 'Garage' includes every place where motor vehicles belonging to persons other than the owner of such garage are housed, stored, kept or repaired for payment, and every place where motor vehicles are housed, stored, or kept to let or for hire to the public, with the exception of street stands or other public places designated by proper municipal authority as parking space for motor vehicles for hire, while waiting or soliciting passengers or business."

Let us see if the ordinance in question comes within the authority granted to the municipal council by said section 2307 of the Administrative Code. Articles 1 and 2 of said ordinance are as follows:

"ARTICLE 1. Within the meaning of this ordinance, all buildings, structures, lots, inclosures or parts thereof, where motor vehicles for hire are kept shall be considered as garages.

"ART. 2. Within the meaning of this ordinance, all motor vehicles used for hire, or for the transportation of passengers and freight for a stipulated price, shall be considered as motor vehicles for hire."

It appears that the "garage" on which the municipal council seeks to impose a tax is different from the "garage" on which the municipal council has power to impose a tax under section 2307 of the Administrative Code. The attorney for the appellee endeavors to show in his brief that there is a difference between a "garage" where motor vehicles are kept for hire, and one where motor vehicles for hire are kept. This seems to be a play upon words, but in reality, the phrases thus used have different meanings. From paragraph 5 of the stipulation of facts, it appears that the plaintiff has no motor vehicles for hire. Plaintiff is engaged in the business of transportation as a common carrier. It operates its autobusses or trucks along certain routes specified in its public utility certificate issued by the Public Service Commission of the Philippine Islands, and receives passengers and freight along the roads and highways on which it operates. It also charges fares fixed by the Public Service Commission. On the other hand, the garage business consists in having a building where automobiles are kept for hire. There are several of these in Manila, such as the N & B Garage, the 1-2-3 Garage, etc. This is the garage business on which the law authorizes municipal councils to impose a tax. The plaintiff, Batangas Transportation Co., is not and has not been engaged in the garage business. It has been engaged in an entirely different kind of business namely, that of a common carrier. Incident to its business, it has a building where its trucks and automobiles are kept when not in use, to protect them from the weather, where it inspects, cleans, and repairs them. For the purposes of this discussion, plaintiff's garage is its own private garage, similar to that which almost every automobile owner has to keep his car in when not in use. And in this sense, the garage of the Batangas Transportation Co. ought not to be subject to the imposition of any tax just as the private garages of car owners. The motor vehicles of plaintiff cannot be hired in the garage, but operate along the routes transporting passengers and freight under the passenger and freight rates fixed by the Public Service Commission, as common carriers; there are kept said motor vehicles in order to be housed, inspected, cleaned and put in condition to go out on their respective routes again. Thus it is seen that although the plaintiff's motor vehicles are used for hire upon the authorized routes specified by the Public Service Commission, yet they are not put in the plaintiff's garage in order to be hired out, but only in order to be inspected, cleaned and repaired, and put in condition so that they can be used again on their respective routes.

Bearing in mind the well-known rule that laws authorizing municipalities to impose taxes are to be strictly construed, we are of the opinion and so hold, that the law authorizes municipal councils to impose a tax on persons engaged in the garage business, where motor vehicles are kept for hire, but does not authorize them to impose a tax on persons engaged in the business of a common carrier, who own private garages wherein to keep their motor vehicles. Therefore, municipal ordinance No. 7, series of 1924, in question, having been enacted in excess of the authority conferred by the law on municipal councils, is null and unlawful.

With respect to the two Dodge cars, which are motor vehicles for hire, they are public utility vehicles and subject

to the regulations of the Public Service Commission, and are a part of the plaintiff's equipment authorized by the Public Service Commission, and under section 53 of Act No. 3045, such automobiles are exempt from additional taxes other than those specified in the law, with the exceptions made in said section.

In addition, section 1, paragraph (e), of Act No. 3422 provides that a municipal council has no power to impose taxes, charges and fees on the business of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by land or water.

In view of the foregoing, the appealed judgment should be, as it is hereby, affirmed, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, and Romualdez, JJ., concur.

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