

**KOLAMBUGAN LUMBER & DEVELOPMENT COMPANY,
PLAINTIFF AND APPELLANT, VS. MANUEL YIA, TREASURER OF THE
PROVINCE OF LANAOS, DEFENDANT AND APPELLEE.**

G. R. No. 33821. October 15, 1931

Ponente: STREET, J.

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STREET, J.:

This action was instituted in the Court of First Instance of the City of Manila by the Kolambugan Lumber & Development Co., a corporation organized under the laws of the Philippine Islands, for the purpose of recovering from the defendant Manuel Yia, treasurer of the Province of Lanao, the sum of P2,145.15, collected from the plaintiff by the defendant as taxes, the same having been paid by the plaintiff under protest. Upon hearing the cause the trial court absolved the defendant from the complaint, and the plaintiff appealed.

The taxes with which we are here concerned were levied upon certain property classed as real property, in conformity with the provisions of section 60 of the Administrative Code of the Department of Mindanao and Sulu. Under the first paragraph of said section "real property" is denned as including "lands, buildings and constructions or other improvements upon land," but as excluding "machinery whether attached as a permanent fixture or not." In the second paragraph of the same section, "machinery" is defined as embracing "all machines, mechanical contrivances, instruments, tools, implements, appliances, apparatus, and paraphernalia used for industrial, agricultural, or manufacturing purposes." The simple question before us is therefore this, whether the property taxed in this case constitutes real property within the meaning of the first paragraph of the provision referred to, or whether it constitutes machinery, as this term is defined in the second paragraph of the same provision.

It appears that the plaintiff is a lumber company engaged in the sawing, drying and shipment of lumber, and the properties taxed by the defendant as real property consist of the following items: (1) A machine shop and locomotive shed; (2) Two dry kilns; (3) Two export lumber drying sheds; (4) One mill building; (5) One wharf. All of these properties and improvements are parts of the plaintiff's sawmill plant located at Kolambugan and are used in connection therewith.

The machinery for sawing, consisting of saws and other appliances actually used in the process of sawing, is installed in the mill building. With these items we are not here concerned, no tax apparently having been assessed upon them. It is noteworthy, however, that the mill building itself is a structure in which is installed the transmission, shafting, and pulleys used for the application of the power operating the saws. Said building is roofed with galvanized iron, and the frame of the building is essential to the installation and use of the sawing machinery proper.

We are of the opinion that the tax for the recovery of which this action was instituted was properly levied upon all of the items of value mentioned above, and the trial court committed no error in absolving the defendant from the complaint. The term "machinery" in its fundamental sense implies an artificial contrivance for the application of

power and production of motion. "Machinery" is a collective term embracing all kinds of machines and appliances used in the industrial arts for mechanically shaping, dressing and combining materials for various purposes. The appellant insists that "machinery" is properly applicable to the entire assemblage constituting its lumber plant, while it is contended for the appellee that the word "machinery" in section 60 of the Administrative Code of the Department of Mindanao and Sulu is used in a narrower sense.

We are of the opinion that the latter contention is correct. Real property does not become exempt from taxation merely by reason of the fact that it is used in connection with machinery or that it is used to supply the base necessary to the application of power derived from machinery. A proper interpretation of the section referred to requires the establishment of a sensible equilibrium between the ideas of real property as a subject of taxation and of machinery as a thing exempt from taxation, and we are of the opinion that the items taxed in this case were properly taxable as real property.

In the case of *Central Azucarera de La Carlota vs. Coscolluela* (44 Phil., 527), we held that a railway used for transporting sugar cane to the central and for transporting the finished product of sugar to the wharf, is machinery within the meaning of a provision in our general tax laws exempting machinery. A railway so used falls strictly within the conception of a contrivance for the artificial application of power, and the decision referred to does not supply any basis for the exemption of the mill building, kilns, drying sheds, and wharf, which are claimed to be exempt in this case. The circumstance that these properties are used in connection with the operation of a sawmill, and are even necessary thereto, does not make them exempt.

The judgment appealed from will be affirmed, and it is so ordered, with costs against the appellant.

Avanceña, C. J., Johnson, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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