

**FRANCISCA FERNANDEZ, AGUSTIN DIZON, VICENTE TOLEDO,
FRANCISCO VALENCIA, MATEO AIZON, FELICIANO AIZON,
GREGORIO MACAPINLAC, ALFREDO PETEL, JOSE LEON Y SANTOS,
JOSE T. JUICIO, JOS...**

G.R. No. 6407. March 16, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Pampanga, Hon. Julio Llorente presiding, dismissing the complaint upon the merits after trial.

The plaintiffs in this case owned lands in the Province of Pampanga and constructed upon the same certain mills with appropriate machinery, operated by steam, for the purpose of manufacturing sugar from the cane. These mills were regarded by the provincial treasurer as improvements upon the real estate to which they were attached and he assessed them upon the tax rolls of the province accordingly. The plaintiffs, pursuant to such assessment and in accordance therewith, paid the taxes upon said real estate and mills for several years without protest. This action is brought for the purpose of having the court (a) adjudge that the mills in question did not and do not constitute improvements upon the real estate; (b) prohibit the defendant from assessing and collecting further taxes upon said mills; (c) and require the defendant to return to the plaintiffs the taxes already paid upon said mills.

As to the first proposition, there can be no question. The mills erected upon the property for the purpose mentioned are clearly improvements upon the property.

These mills being improvements, it was and is the duty of the provincial treasurer to assess them under section 54 of the Municipal Code, which provides:

"(a) After having completed the list, the board shall proceed to assess the value of each separate parcel of real estate, and the improvements thereon, if any, at their true value in money; and, where it shall appear that there are separate owners of the land and of the improvements, a separate assessment of the property of each shall be made.

"(b) The values so fixed shall be placed upon the tax list opposite the names of the owners and the descriptions of the property taxed."

This disposes also of the second proposition presented by the plaintiffs.

Apropos of the third proposition, as well as the other two, we present the following sections of the Municipal Code:

"SEC. 56. The board of assessors shall complete their listing and valuation of real property situated within the municipality on or before January thirty-first, nineteen hundred and two, and, when completed, shall

authenticate the same by signing the following certificate at the foot of the list:

"We hereby certify that the foregoing list contains a true statement of the aggregate amount of the taxable real estate belonging to each person named in the list, according to the best of our knowledge and belief."

"SEC. 57. When the list shall be completed in accordance with the foregoing section, it shall be filed in the office of the secretary of the board and the board of assessors shall, by notice posted at the main entrance of the municipal building and by a notice posted in a public and conspicuous place in each barrio of the municipality, inform the public that the list has been completed and is on file in the office of the secretary of the board and may be examined by any person interested therein, and that, upon a day, at least ten days after the posting of said notice, the board will be in session for the purpose of hearing complaints as to the accuracy of the listing of the property and a proper valuation thereof. After such notices have been posted the secretary shall certify to the fact of posting upon the records, which shall be deemed prima facie evidence thereof. At the day fixed in the posted notice, the board shall meet and hear all complaints then or theretofore filed by persons against whom taxes have been assessed as owners of real estate, and shall make and enter the decision on its minutes; and if the board shall determine that injustice has been done or errors have been committed, it shall have authority to amend the list in accordance with its findings.

"SEC. 58. In case any complainant before the board of assessors shall feel aggrieved by its decision, he may, within ten days after the entry of the decision upon the minutes, appeal to a board of tax appeals hereinafter provided for. He shall perfect his appeal by filing a written notice of the same with the board of assessors, and it shall be the duty of the secretary of said board forthwith to transmit the appeal to the board of tax appeals, with all written evidence in the possession of the board relating to said assessment and valuation."

"SEC. 84. No court shall entertain any suit assailing the validity of a tax assessed under this act until the taxpayer shall have paid, under protest, the taxes assessed against him, nor shall any court declare any tax invalid by reason of irregularities or informalities in the proceedings of the officers charged with the assessment or collection of the taxes, or of a failure to perform their duties within the time herein specified for their performance, unless such irregularities, informalities or failures shall have impaired the substantial rights of the taxpayer; nor shall any court declare any tax assessed under the provision of this act invalid except upon condition that the taxpayer shall pay the just amount of his tax, as determined by the court in the pending proceeding."

From these provisions it appears that it was the duty of the plaintiffs, if they felt aggrieved over the assessment made against them by the provincial authorities, to present their objections and make their complaints as provided therein. It appears from the record that the plaintiffs not only neglected and failed to take the proceedings required by law for the protection of their interests but also without protest or objection of any kind paid the taxes which they now seek to recover.

Not having taken the steps required by law for the protection of their interests, the action can not be maintained. (Cooley, Taxation, Vol. 2, pp. 1496, 1497, 1499; Van Buren vs. Downing, 41 Wis., 122; Erskine vs. Van Arsdale, 15 Wall, 75; Desty, American Law of Taxation, Vol. 2, 791; Younger vs. Board of Supervisors of Santa Cruz County, 68 Cal., 241; Wills vs. Austin, 53 Cal., 180; Richardson vs. Denver, 17 Colo., 398; Tatum vs. Trenton, 85 Ga., 466; McWhinney vs. Logansport, 132 Ind., 9; Kraft vs. Keokuk, 14 Iowa, 86; Espy vs. Fort Madison, 14 Iowa, 226; Gould vs. Board of Commissioners, 76 Minn., 379; Pooley vs. Buffalo, 124 N. Y., 206; Bristol vs. Morganton Commissioners, 125 N. C., 365; Curtin vs. Viroqua, 67 Wis., 314.)

The judgment appealed from must be affirmed, without special finding as to costs. So ordered.

Arellano C. J., Mapa, Carson, and Trent, JJ., concur.

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