

FRANCISCO I. CHAVEZ, PETITIONER, VS. JAIME B. ONGPIN, IN HIS CAPACITY AS MINISTER OF FINANCE AND FIDELINA CRUZ, IN HER CAPACITY AS ACTING MUNICIPAL TREASURER OF THE MUNICIPALITY...

G.R. No. 76778. June 06, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The petition seeks to declare unconstitutional Executive Order No. 73 dated November 25, 1986, which we quote in full, as follows (78 O.G. 5861):

"EXECUTIVE ORDER No. 73

"PROVIDING FOR THE COLLECTION OF REAL PROPERTY TAXES BASED ON THE 1984 REAL PROPERTY VALUES, AS PROVIDED FOR UNDER SECTION 21 OF THE REAL PROPERTY TAX CODE, AS AMENDED

"WHEREAS, the collection of real property taxes is still based on the 1978 revision of property values;

"WHEREAS, the latest general revision of real property assessments completed in 1984 has rendered the 1978 revised values obsolete;

"WHEREAS, the collection of real property taxes based on the 1984 real property values was deferred to take effect on January 1, 1988 instead of January 1, 1985, thus depriving the local government units of an additional source of revenue;

"WHEREAS, there is an urgent need for local governments to augment their financial resources to meet the rising cost of rendering effective services to the people;

"NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

"SECTION 1. Real property values as of December 31, 1984 as determined by the local assessors during the latest general revision of assessments shall take effect beginning January 1, 1987 for purposes of real property tax collection.

"SEC. 2. The Minister of Finance shall promulgate the necessary rules and regulations to implement this Executive Order.

"SEC. 3. Executive Order No. 1019, dated April 18, 1985, is hereby repealed.

"SEC. 4. All laws, orders, issuances, and rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

"SEC. 5. This Executive Order shall take effect immediately."

On March 31, 1987, Memorandum Order No. 77 was issued suspending the implementation of Executive Order No. 73 until June 30, 1987.

The petitioner, Francisco I. Chavez[1], is a taxpayer and an owner of three parcels of land. He alleges the following: that Executive Order No. 73 accelerated the application of the general revision of assessments to January 1, 1987 thereby mandating an excessive increase in real property taxes by 100% to 400% on improvements, and up to 100% on land; that any increase in the value of real property brought about by the revision of real property values and assessments would necessarily lead to a proportionate increase in real property taxes; that sheer oppression is the result of increasing real property taxes at a period of time when harsh economic conditions prevail; and that the increase in the market values of real property as reflected in the schedule of values was brought about only by inflation and economic recession.

The intervenor Realty Owners Association of the Philippines, Inc. (ROAP), which is the national association of owners-lessors, joins Chavez in his petition to declare unconstitutional Executive Order No. 73, but additionally alleges the following: that Presidential Decree No. 464 is unconstitutional insofar as it imposes an additional one percent (1%) tax on all property owners to raise funds for education, as real property tax is admittedly a local tax for local governments; that the General Revision of Assessments does not meet the requirements of due process as regards publication, notice of hearing, opportunity to be heard and insofar as it authorizes "replacement cost" of buildings (improvements) which is not provided in Presidential Decree No. 464, but only in an administrative regulation of the Department of Finance; and that the Joint Local Assessment/Treasury Regulations No. 2-86[2] is even more oppressive and unconstitutional as it imposes successive increase of 150% over the 1986 tax.

The Office of the Solicitor General argues against the petition.

The petition is not impressed with merit.

Petitioner Chavez and intervenor ROAP question the constitutionality of Executive Order No. 73 insofar as the revision of the assessments and the effectivity thereof are concerned. It should be emphasized that Executive Order No. 73 merely directs, in Section 1 thereof, that:

"SECTION 1. Real property values as of December 31, 1984 as determined by the local assessors during the latest general revision of assessments shall take effect beginning January 1, 1987 for purposes of real property tax collection." (underscoring supplied)

The general revision of assessments completed in 1984 is based on Section 21 of Presidential Decree No. 464 which provides, as follows:

"SEC. 21. General Revision of Assess-ments.- Beginning with the calendar year 1978, the provincial or city assessor shall make a general revision of real property assessments in the province or city to take effect January 1, 1979, and once every five years thereafter: Provided; however, That if property values in a province or city, or in any municipality, have greatly changed since the last general revision, the provincial or city assessor may, with the approval of the Secretary of Finance or upon his discretion, undertake a general revision of assessments in the province or city, or in any municipality before the fifth year from the effectivity of the last general revision."

Thus, We agree with the Office of the Solicitor General that the attack on Executive Order No. 73 has no legal basis as the general revision of assessments is a continuing process mandated by Section 21 of Presidential Decree No. 464. If at all, it is Presidential Decree No. 464 which should be challenged as constitutionally infirm. However, Chavez failed to raise any objection against said decree. It was ROAP which questioned the constitutionality thereof. Furthermore, Presidential Decree No. 464 furnishes the procedure by which a tax assessment may be questioned:

"SEC. 30. Local Board of Assessment Appeals.- Any owner who is not satisfied with the action of the provincial or city assessor in the assessment of his property may, within sixty days from the date of receipt by him of the written notice of assessment as provided in this Code, appeal to the Board of Assessment Appeals of the province or city, by filing with it a petition under oath using the form prescribed for the purpose, together with copies of the tax declarations and such affidavit or documents submitted in support of the appeal."

x x x

"SEC. 34. Action by the Local Board of Assessment Appeals.- The Local Board of Assessment Appeals shall decide the appeal within one hundred and twenty days from the date of receipt of such appeal. The decision rendered must be based on substantial evidence presented at the hearing or at least contained in the record and disclosed to the parties or such relevant evidence as a reasonable mind might accept as adequate to support the conclusion.

"In the exercise of its appellate jurisdiction, the Board shall have the power to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall be conducted solely for the purpose of ascertaining the truth without necessarily adhering to technical rules applicable in judicial proceedings.

"The Secretary of the Board shall furnish the property owner and the Provincial or City Assessor with a copy each of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the property owner of such fact using the form prescribed for the purpose. The owner or administrator of the property or the assessor who is not satisfied with the decision of the Board of Assessment Appeals, may, within thirty days after receipt of the decision of the local Board, appeal to the Central Board of Assessment Appeals by filing his appeal under oath with the Secretary of the proper provincial or city Board of Assessment Appeals using the prescribed form stating therein the grounds and the reasons for the appeal, and attaching thereto any evidence pertinent to the case. A copy of the appeal should be also furnished the Central Board of Assessment Appeals, through its Chairman, by the appellant.

"Within ten (10) days from receipt of the appeal, the Secretary of the Board of Assessment Appeals concerned shall forward the same and all papers related thereto, to the Central Board of Assessment Appeals through the Chairman thereof."

x x x

"SEC. 36. Scope of Powers and Functions.- The Central Board of Assessment Appeals shall have jurisdiction over appealed assessment cases decided by the Local Board of Assessment Appeals. The said Board shall decide cases brought on appeal within twelve (12) months from the date of receipt, which decision shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy of the decision by the appellant.

"In the exercise of its appellate jurisdiction, the Central Board of Assessment Appeals, or upon express authority, the Hearing Commissioner, shall have the power to summon witnesses, administer oaths, take depositions, and issue subpoenas and subpoenas duces tecum.

"The Central Board of Assessment Appeals shall adopt and promulgate rules of procedure relative to the conduct of its business."

Simply stated, within sixty days from the date of receipt of the written notice of assessment, any owner who doubts the assessment of his property, may appeal to the Local Board of Assessment Appeals. In case the owner or administrator of the property or the assessor is not satisfied with the decision of the Local Board of Assessment Appeals, he may, within thirty days from the receipt of the decision, appeal to the Central Board of Assessment Appeals. The decision of the Central Board of Assessment Appeals shall become final and executory after the

lapse of fifteen days from the date of receipt of the decision.

Chavez argues further that the unreasonable increase in real property taxes brought about by Executive Order No. 73 amounts to a confiscation of property repugnant to the constitutional guarantee of due process, invoking the cases of *Ermita-Malate Hotel, et al. v. Mayor of Manila* (G.R. No. L-24693, July 31, 1967, 20 SCRA 849) and *Sison v. Ancheta, et al.* (G.R. No. 59431, July 25, 1984, 130 SCRA 654).

The reliance on these two cases is certainly misplaced because the due process requirement called for therein applies to the "power to tax." Executive Order No. 73 does not impose new taxes nor increase taxes.

Indeed, the government recognized the financial burden to the taxpayers that will result from an increase in real property taxes. Hence, Executive Order No. 1019 was issued on April 18, 1985, deferring the implementation of the increase in real property taxes resulting from the revised real property assessments, from January 1, 1985 to January 1, 1988. Section 5 thereof is quoted herein as follows:

"SEC. 5. The increase in real property taxes resulting from the revised real property assessments as provided for under Section 21 of Presidential Decree No. 464, as amended by Presidential Decree No. 1621, shall be collected beginning January 1, 1988 instead of January 1, 1985 in order to enable the Ministry of Finance and the Ministry of Local Government to establish the new systems of tax collection and assessment provided herein and in order to alleviate the condition of the people, including real property owners, as a result of temporary economic difficulties." (underscoring supplied)

The issuance of Executive Order No. 73 which changed the date of implementation of the increase in real property taxes from January 1, 1988 to January 1, 1987 and therefore repealed Executive Order No. 1019, also finds ample justification in its "whereas" clauses, as follows:

"WHEREAS, the collection of real property taxes based on the 1984 real property values was deferred to take effect on January 1, 1988 instead of January 1, 1985, thus depriving the local government units of an additional source of revenue;

"WHEREAS, there is an urgent need for local governments to augment their financial resources to meet the rising cost of rendering effective services to the people; (underscoring supplied)

"x x x."

The other allegation of ROAP that Presidential Decree No. 464 is unconstitutional, is not proper to be resolved in the present petition. As stated at the outset, the issue here is limited to the constitutionality of Executive Order No. 73. Intervention is not an independent proceeding, but an ancillary and supplemental one which, in the nature of things, unless otherwise provided for by legislation (or Rules of Court), must be in subordination to the main proceeding, and it may be laid down as a general rule that an intervention is limited to the field of litigation open to the original parties (59 Am. Jur. 950; *Garcia, etc., et al. v. David, et al.*, 67 Phil. 279).

We agree with the observation of the Office of the Solicitor General that without Executive Order No. 73, the basis for collection of real property taxes will still be the 1978 revision of property values. Certainly, to continue collecting real property taxes based on valuations arrived at several years ago, in disregard of the increases in the value of real properties that have occurred since then, is not in consonance with a sound tax system. Fiscal adequacy, which is one of the characteristics of a sound tax system, requires that sources of revenues must be adequate to meet government expenditures and their variations.

ACCORDINGLY, the petition and the petition-in--intervention are hereby DISMISSED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, and Regalado, JJ., concur.

Padilla, J., no part; related to intervenor's counsel.

Griño-Aquino, J., on leave.

[1] He filed the instant petition before he was appointed to his present position as Solicitor General.

[2] The Joint Local Assessment/Treasury Regulations No. 2-86 issued on December 12, 1986 implements Executive Order No. 73.

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