

ISMAEL A. MATHAY, JR., PETITIONER, VS. VICTOR C. MACALINCAG, UNDERSECRETARY OF FINANCE, THE CITY ASSESSOR OF QUEZON CITY, AND THE CITY TREASURER OF QUEZON CITY, RESPONDENTS.

G.R. No. 97618. December 16, 1993

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

On March 21, 1991, Ismael A. Mathay, Jr., describing himself as "a member of Congress, and registered owner of lands in Quezon City and resident of Metro Manila," instituted in this Court a special civil action of prohibition against Victor Macalincag, then the Undersecretary of Finance, the City Assessor and the City Treasurer of Quezon City. The action was docketed as G.R. No. 97618.

His petition sought the perpetual injunction, as unconstitutional and void, of "(a) the schedule of market values prepared by respondent City Assessor for all classes of real property situated in Quezon City ("to take effect not earlier than January 1, 1991," and "implemented gradually over a three-year period on a 1/3 2/3 2/3 scheme"), (b) the approval of said schedule by respondent Victor Macalincag, (c) the revised and/or increased assessments of the properties prepared by the City Assessor based on the illegal schedule of market values, and (d) the oppressive and excessive real estate tax increases being implemented by respondents City Assessor and City Treasurer pursuant to the illegal schedule of market values and unlawful approval, all in violation of the Constitution and laws. The essential foundation of the petitioner's thesis of the nullity of the schedule of market values is that it was prepared by the respondent City Assessor alone, independently of the other City Assessors within the Metropolitan Manila Area, this being in patent violation of the explicit requirement of Section 9 of Presidential Decree No. 921, viz.:

"SEC. 9. Preparation of Schedule of Values for Real Property within the Metropolitan Area. -- The Schedule of Values that will serve as the basis for the appraisal and assessment for taxation purposes of real properties located within the Metropolitan Area shall be prepared jointly by the City Assessors of the Districts created under Section one hereof, with the City Assessor of Manila acting as Chairman, in accordance with the pertinent provisions of Presidential Decree No. 464, as amended, otherwise known as the Real Property Tax Code, and the implementing rules and regulations thereby issued by the Secretary of Finance."

The "City Assessors of the Districts created under Section one" above referred to -- apart from the City Assessor of the First District, Manila, who as aforestated, shall act "as Chairman" -- are the City Assessors of the second District: Quezon City, Pasig, Marikina, Mandaluyong, and San Juan; of the Third District: Caloocan City, Malabon, Navotas, and Valenzuela; of the Fourth District: Pasay City, Makati, Parañaque, Muntinlupa, Las Piñas, Pateros, Taguig.

The statutory requirement of joint or collective action is echoed in the regulations promulgated by the Department of Finance (No. 7-77) on July 25, 1977, Section 1.02 of which provides that "Schedule of Market Values for real property situated within the Metropolitan Manila area shall be prepared jointly by the City Assessors of the

Districts created under Section 1 of Presidential Decree No. 921, with the City Assessor of Manila, acting as Chairman."

On the same day, March 21, 1991, this Court issued "a TEMPORARY RESTRAINING ORDER effective immediately and continuing until further orders ** ordering the respondents to CEASE and DESIST from implementing the new increased assessments of real properties in Quezon City" it being made clear, however, that "taxpayers are required to pay under the old assessments." The Court also set the case for hearing on Tuesday, April 23, 1991.

Six (6) days later, a similar action was initiated in this Court by Rufino S. Javier -- describing himself as "the Congressman of the Lone District of Pasig, Metro Manila ** (and) a real property estate owner in Pasig ** " -- this time against Victor C. Macalincag, as Undersecretary of Finance, and the Municipal Assessor and the Municipal Treasurer of Pasig, Metro Manila. The action was docketed as G.R. No. 97760. On the same legal theory as that espoused by petitioner Mathay in the first action, Javier's petition sought the permanent proscription of the enforcement of "the unreasonably burdensome, unjust and confiscatory increase" in the assessment of real estate in Pasig.

On April 23, 1991, several persons filed a motion to intervene as petitioners in the action, identifying themselves as: "Legal Management Council of the Philippines, Eliseo B. Alampay, Custodio G. Parlade, Vicente A. Macatangay, Jr., Casiano O. Flores, Primo L. Agsaoay, Pepito Abrajano, Leonila P. Reyes, ** residents of Quezon City ** (suing) in their behalf and in behalf of ALL OTHER RESIDENTS OF QUEZON CITY SIMILARLY SITUATED," and alleging that they "have direct, legal and material interest in the success of the main petition at bar," and the "subject matter of the present controversy is one of common or general interest to all owners of real estate properties in Quezon City" in whose behalf the intervention is essayed.

At the hearing of April 23, 1991, the Court heard the petitioners and respondents (who had in the meantime filed their comments on the petitions) in the two (2) actions: G.R. No. 97618 and G.R. No. 97760. It thereafter issued a Resolution inter alia admitting the petition in intervention and resetting the hearing of both cases to Thursday, May 16, 1991.

After the Court had again heard the parties on May 16, 1991, it issued a Resolution containing the following disposition, to wit:

"It being the petitioners' and intervenors' principal complaint that they were not accorded adequate opportunity to ventilate their objections to the procedure followed in the establishment of the new assessment levels and to adduce evidence relative to the correctness and reasonableness thereof, and there being agreement on all sides that in view of the suspension of the 'enforcement of the new real property tax without prejudice to its enforcement when factual factors and considerations later warrant,' a re-examination of the specific rates thereof may be undertaken at this time in light of said petitioners' and intervenors' objections as well as such evidence as they may wish to submit, the Court, in the exercise of its extraordinary or certiorari jurisdiction, Resolved to REFER both these cases, G.R. No. 97618 and G.R. No. 97760, to the Central Board of Assessment Appeals for hearing and determination upon the issues therein raised and such evidence as the parties may present, and to DIRECT said Board to SUBMIT to the Court a copy of its final judgment forthwith upon its rendition. * * *."

On the same day, May 16, 1991, as in the first action (G.R. No. 97618), a temporary restraining order was issued in this second one, "ordering the respondents to CEASE and DESIST from implementing the new increased assessments of real properties in Pasig, Metro Manila," it also being made clear, however, that "taxpayers are required to pay under the old assessments."

On November 5, 1991, the Court issued a Resolution clarifying its earlier one of May 16, 1991. It pointed out that the authority of the Central Board of Assessment Appeals "to take cognizance of the factual issues raised in these two cases by virtue of the referral by this Court in the exercise of its extraordinary or certiorari jurisdiction should not be confused with its appellate jurisdiction over appealed assessment cases under Section 36 of P.D. 464 otherwise known as the Real Property Tax Code. The Board is not acting in its appellate jurisdiction in the instant cases, but rather, it is acting as a Court-appointed fact-finding commission to assist the Court in resolving the factual issues raised in G.R. Nos. 97618 and 97760."

A third special civil action of prohibition impugning the increase of real property assessment levels, this time in respect of land located in Makati, was instituted on November 4, 1991 by Consuelo Puyat-Reyes, describing herself as "a registered owner of real estate property in the Municipality of Makati and ** the incumbent Congresswoman of the District of Makati, Metro Manila **." Impleaded as respondents were the Secretary of Finance (acting through the then Undersecretary Victor C. Macalincag), the Municipal Assessor and the Municipal Treasurer of Makati. Acting thereon, the Court, by Resolution dated November 12, 1991, referred the case to the Central Board of Assessment Appeals "pursuant to the resolution dated May 16, 1991 in G.R. No. 97618 (Mathay vs. Undersecretary of Finance, et al.) and G.R. No. 97760 (Javier vs. Undersecretary of Finance, et al.) and clarified in the resolution of November 5, 1991," and issued a "TEMPORARY RESTRAINING ORDER ** ** ordering the respondents to CEASE and DESIST from enforcing the revised real property assessments and from collecting the increased rates of real estate taxes based thereon in Makati."

The Central Board of Assessment Appeals thereupon proceeded to act on the cases. It opted to hear G.R. No. 97618 (CBAA Case No. 261) separately from G.R. No. 97760 "in order ** to independently determine the merits of the said two cases, the issues therein raised and such evidences presented by the parties."

It rendered a Decision in G.R. No. 97618 (CBAA Case No. 261) on February 24, 1993,[1] which it transmitted in due course to this Court on March 11, 1993 together with the "records of the case consisting of 426 pages." It found for the petitioner, Ismael A. Mathay, Jr., and sustained his theory by the following ratiocination:

"Section 9 of P.D. 921 is specific and mandatory. The undisputed fact that the City Assessor of Quezon City solely prepared the Schedule of Market Valuaues in question; without the participation of the other City Assessors of Metropolitan Manila, with the City Assessor of Manila acting as Chairman (SEE Exhibit 'K,' Letter of Mr. Carlos C. Antonio to Petitioner, dated March 18, 1991), indicates that the said Schedule of Market Values was prepared contrary to and unauthorized under Section 9 of P.D. 921 and its implementing rule on Section 1.02 of AR No. 7--77. The conclusion is, therefore, inevitable that the said Schedule of Market Values, having been prepared by the respondent City Assessor contrary to the express provision of and without authority under Section 9 is illegal and therefore void.

This Board is of the considered view that the E.O. No. 392 has not repealed P.D. No. 921.

Laws are repealed only by subsequent ones (Art. 7, New Civil Code). An executive order (like E.O. No. 392) cannot repeal a legislative act (like P.D. 921) (Largado vs. Masaganda, L-17624, June 30, 1962). A legislative Act, therefore, can only be repealed by another subsequent legislative Act (Hilado vs. Collector, L-9408, October 31, 1956). Well-recognized by all civilized nations is that a decree issued by the commander-in-chief of the armed forces who is the head of state and exercising law-making powers under martial law is in the nature of a legislative act (Ex-parte Milligan, 4 Wall 2).

Granting for the sake of argument, that E.O. No. 392 was a valid repealing act that abolished the Metropolitan Manila Commission, yet the said Executive Order did not in any manner affect the life of P.D. 921 nor the assessment districts and committee created therein under Section 9 thereof nor its provision regarding the preparation of schedule of market values for real properties within the Metropolitan Manila Area.

So that, whether it is named Metro Manila Commission or Metro Manila Authority, P.D. 921 remains effective until validly repealed by subsequent legislation through Congress (*Hilado vs. Collector*, supra). Furthermore, implied repeals are never favored in our jurisdiction (*U.S. vs. Palacio*, 33 Phil. 208). Expressed otherwise, the Local Treasury and Assessment Districts created by P.D. 921 has a life independent of the Metropolitan Manila Authority, and the abolition of the Metro Manila Commission does not follow the abolition also of P.D. 921 or the Treasury and Assessment Districts under Metropolitan Manila. Moreover, a perusal of E.O. 392 shows that it provides no repealing clause and that it does not contain a specific provision relative to preparation of schedule of values. It is then clear that Section 9 of P.D. 921 still subsists and is the controlling provision with respect to the manner of preparation of schedule of values for Metropolitan Manila.

This Board considers untenable the allegation in the Comment submitted to the Supreme Court for Respondent Hon. Undersecretary Victor C. Macalincag, that the Respondent City Assessor has authority to prepare alone the questioned Schedule of Market Values for the reason that Section 9 of P.D. 921 refers to a general revision and has no application to selective revaluation or assessment of properties in a certain local government unit. There is nothing in the provision of Section 9 where we should distinguish between a general revision or revaluation or reassessment in the preparation of the Schedule of Market Values for Metropolitan Manila, as basis for the appraisal and assessment for taxation purposes of real properties located in the area. "Where the law does not distinguish we should not distinguish."

As this Board has ruled that the questioned Schedule of Market Values is illegal and, therefore, void, the review and findings of the created Technical Review Panel, that the said Schedule of Market Values was prepared in compliance with the "instructions" embodied in the Assessment Regulation No. 7-77, will not render valid the void Schedule of Market Values.

Petitioner further assailed the legality of the Schedule of Market Values in question on the ground that it was not approved by the Secretary of Finance, but by Respondent Undersecretary Victor Macalincag contrary to Section 15 of P.D. 464.

We believe that it is at this point immaterial to determine whether or not the questioned Schedule of Market Values should be approved by the Secretary of Finance himself. The fact being that the said Schedule of Market Values as approved by Respondent Undersecretary Macalincag is void from its preparation.

As repeatedly emphasized by our Supreme Court in a line of jurisprudence, "an illegal act confers no rights, creates no duties, and in the eyes of the law, it is as if the same had never existed. It can be slain at sight." Such is the case of the questioned Schedule of Market Values, which is hereby declared void and without force and effect. Therefore, the realty tax rates based on the Schedule of Market Values are likewise void and unenforceable.

Further, considering that this Board in its findings ruled on the illegality of the Schedule of Market Values as prepared by the Respondent City Assessor, the question of notice of assessment is rendered moot and academic.

WHEREFORE, judgment is hereby rendered, declaring, as this Board hereby declares, null and void, and, therefore, unenforceable the subject Schedule of Market Values for all classes of lands in Quezon City, as prepared solely by Respondent City Assessor being contrary to and in violation of Section 9 of P.D. No. 921. Respondents City Assessor and Treasurer of Quezon City are hereby ordered to act accordingly.

This Board hereby declares null and void, and, therefore, unenforceable, the subject Schedule of Market Values for all classes of lands in Quezon City, as prepared solely by Respondent City Assessor, being contrary to and in violation of Section 9 of P.D. No. 921."

The Board also rejected the respondents' argument that "the subsequent issuance of Executive Order No. 392, constituting the Metropolitan Manila Authority on January 9, 1989, has in effect abolished the Metro Manila

Commission, and therefore has ceased to function." It ruled that Executive Order No. 392 could not repeal a legislative act like P.D. No. 921, and that even assuming that Executive Order did abolish the Commission, the former "did not in any manner affect the life of P.D. 921 nor the assessment districts and committee created therein under Section 9 thereof nor its provision regarding the preparation of schedule of market values for real properties within the Metropolitan Manila Area."

The Central Board of Assessment Appeals rendered its decision in the second case, G.R. No. 97760 (CBAA Case No. 262) (Javier v. Macalincag), on May 7, 1993, which it transmitted to this Court by letter of its Chairman dated May 17, 1993. It pronounced null and void the Schedule of Market Values for Pasig solely prepared by its Municipal Assessor. Said the Board:

"The argument of Respondents about the meetings of the League of City and Municipal Assessors to consider the proposed schedule for Quezon City or Pasig, for that matter, is untenable. The League has no authority to prepare the Schedule of Market Values, for not having been constituted in accordance with Section 9 of P.D. 921 and 2nd par. of Section 1.02 of DOF AR No. 7-77 which pertained only to the Districts created under Section 1 of P.D. 921. But even granting that the League has authority, the League did not extend any hand in the preparation of said schedule. Consideration or discussion thereof, is not preparation.

In this Board's Decision on CBAA Case No. 261 G.R. No. 97618, ISMAEL A. MATHAY, JR., Petitioner, vs. THE HON. VICTOR C. MACALINCAG (Undersecretary of Finance), et al., the dispositive portion thereof reads as follows:

'This Board hereby declares null and void, and, therefore, unenforceable, the subject Schedule of Market Values for all classes of lands in Quezon City, as prepared solely by Respondent City Assessor, being contrary to and in violation of Section 9 of P.D. No. 921.'

As in the Mathay case, the same issues were substantially raised in the Javier case. It would be utter folly for this Board to apply the same law differently to the latter case. What is good for the goose should be good for the gander. The principle of State Decisis impels this Board to abide by its Decision to stand as precedents for future judgments.

WHEREFORE, judgment is hereby rendered, declaring null and void the instant Schedule of Market Values, prepared solely by the Municipal Assessor of Pasig, for lands in Pasig, Metro Manila, in violation of Section 9 of P.D. 921. Respondents Municipal Assessor and Municipal Treasurer of Pasig, Metro Manila, are hereby ordered to act accordingly."

The Board pronounced judgment in the third case, G.R. No. 102319 (CBAA Case No. 263) (Consuelo Puyat-Reyes v. Secretary of Finance, et al.) on October 5, 1993. This it also sent to this Court, together with the records, on October 18, 1993.

The decision states that in March, 1993, the Board allowed two (2) firms to make common cause with petitioner Puyat-Reyes as petitioners-in-intervention, namely: Ayala Land, Inc. (ALI) and Makati Commercial Estate Association, Inc. (MACEA), "owners/lessees of real properties located within the Municipality of Makati;" and that compromise agreements were arrived at and submitted by Puyat-Reyes and the respondents, as well as by the latter and the intervenors.

The Board declared the compromise agreements to have no legal basis and hence unacceptable under Article 1306 of the Civil Code. And it disposed of the merits of the controversy as follows:

"Still fresh from its memory, this Board cannot simply set aside its decision on CBAA Cases Nos. 261 (Ismael A. Mathay, Jr. vs. the Hon. Victor C. Macalincag, Undersecretary of Finance, et al.), and 262 (Rufino S. Javier vs. the Hon. Victor C. Macalincag, Undersecretary of Finance, et al.) and disregard the principle of stare

decisis. This Board must abide or adhere to decided cases, especially and more so when such decisions emanate from the Board itself.

WHEREFORE, judgment is hereby rendered, declaring null and void the instant Schedule of Market Values, prepared solely by the Municipal Assessor of Makati, for lands in Makati, Metro Manila, in violation of Section 9, P.D. 921 and the Compromise Agreements, entered into by and between the Petitioner and Respondents and among and between the Intervenors and Respondents, inexistent and void and without force and effect. Respondents Municipal Assessor and Municipal Treasurer of Makati, Metro Manila, are hereby ordered to act accordingly."

The Court has reviewed the records of all these three (3) cases and finds that the Central Board of Assessment Appeals has proceeded correctly as regards their hearing and determination. It also agrees with the Board's conclusion that the Schedules of Market Values for real property located in Quezon City, the Municipality of Pasig and the Municipality of Makati, respectively prepared solely by the City Assessor of Quezon City, and the Municipal Assessors of Pasig and Makati, failed to comply with the explicit requirements of Presidential Decree No. 921 in relation to the corresponding Administrative Regulations promulgated by the Department of Finance (No. 7-77) on July 25, 1977, and are on that account illegal and void. The Court therefore hereby approves and adopts as its own the following dispositions made by the Central Board of Assessment Appeals in all said cases, to wit:

1) RE G.R. No. 97618 (CBAA Case No. 261)

"This Board hereby declares null and void, and, therefore, unenforceable, the subject Schedule of Market Values for all classes of lands in Quezon City, as prepared solely by Respondent City Assessor, being contrary to and in violation of Section 9 of P.D. No. 921."

2) RE G.R. No. 97760 (CBAA Case No. 262)

"WHEREFORE, judgment is hereby rendered, declaring null and void the instant Schedule of Market Values, prepared solely by the Municipal Assessor of Pasig, for lands in Pasig, Metro Manila, in violation of Section 9 of P.D. 921. Respondents Municipal Assessor and Municipal Treasurer of Pasig, Metro Manila, are hereby ordered to act accordingly."

3) RE G.R. No. 102319 (CBAA Case No. 263)

"WHEREFORE, judgment is hereby rendered, declaring null and void the instant Schedule of Market Values, prepared solely by the Municipal Assessor of Makati, for lands in Makati, Metro Manila, in violation of Section 9, P.D. 921 and the Compromise Agreements, entered into by and between the Petitioner and Respondents and among and between the Intervenors and Respondents, inexistent and void and without force and effect. Respondents Municipal Assessor and Municipal Treasurer of Makati, Metro Manila, are hereby ordered to act accordingly."

IT IS SO ORDERED.

Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

[1] Per its Chairman, Hon. Margarita G. Magistrado, whose opinion was concurred in by Hon. Eleanor A. Santos, Member, and Hon. Alfonso M. Medado, Member

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