

[G.R. No. 2963. February 14, 1907]

**COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, PLAINTIFF AND APPELLEE,
VS. THE CITY OF MANILA, DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This was an action brought by the plaintiff against the defendant in the Court of First Instance of the city of Manila, on the 21st day of March, 1905, for the recovery of the sum of 134,444.97 pesos, which sum the plaintiff alleges was illegally collected by the defendant of the plaintiff as taxes for the years 1898, 1899, 1900, 1901, 1902, and 1903.

To the complaint of the plaintiff the defendant filed a general demurrer, which was overruled by the lower court.

On the 14th day of June, 1905, the parties to the action entered into an agreement with reference to the facts in said cause, which stipulation is as follows:

“I.

“Que el demandante en este asunto es hoy y durante todo el tiempo que mas adelante se mencione, ha sido una sociedad anonima debidamente organizada y existente bajo y en virtud de las leyes de España, y debidamente registrada para la transaccion de negocios en las Islas Filipinas en el Registro Mercantil de la ciudad de Manila, Islas Filipinas.

“II.

“Que la demandada es hoy y durante todo el tiempo que mas adelante se mencione con posterioridad al dia 6 de Agosto de 1901 ha sido una corporacion municipal debidamente organizada y existente bajo y en virtud de las leyes de las

Islas Filipinas.

“III.

“Que en todo el tiempo durante los años 1898, 1899, 1900, 1901, 1902 y 1903, y con anterioridad a estos años, la compañía demandante ha estado dedicada a los negocios en las Islas Filipinas, teniendo su agencia central en la ciudad de Manila, Islas Filipinas, y varias sucursales o sub-agencias en varias ciudades y poblaciones en varias partes del Archipiélago Filipino, y su domicilio social en Barcelona, España.

“IV.

“Que en o hacia el día 9 de Mayo de 1901, la Administración de Hacienda (Department of Internal Revenue) tasó en contra de la compañía demandante, en concepto de contribución industrial correspondiente a los años 1898, 1899 y 1900, las cantidades de P36,790.50, P32,216.70 y P24,975, moneda local, cuyas cantidades se calcularon y basaron sobre el total de los dividendos declarados y repartidos en los referidos años respectivos a favor de los accionistas de la compañía demandante en la distribución de las ganancias de dicha compañía, no obstante que dichas ganancias fueron obtenidas en los negocios de la compañía realizados en los años 1897, 1898 y 1899 respectivamente.

“V.

“Que el referido día 9 de Mayo de 1901, la compañía demandante celebró con la Administración de Hacienda (Department of Internal Revenue) una liquidación de dichas contribuciones así tasadas, pagando y satisfaciendo a la referida Administración de Hacienda las cantidades arriba mencionadas en metálico y en créditos a favor de la compañía demandante, adquiridos por haber pagado por y en concepto de contribuciones industrial y urbana, en la forma siguiente:

Año 1898: Contribucion industrial		P36,790.50
Pagado, creditos	P1,370.10	
Metalico	35,420.40	
	<hr/>	
Total	36,790.50	
Año 1899: Contribucion industrial		32,216.70

Pagado, creditos	5,905.67	
Metalico	26,311.03	
	<hr/>	
Total	32,216.70	
Año 1900: Contribucion industrial		24,975.00
Pagado, creditos	6,320.49	
Metalico	18,654.51	
	<hr/>	
Total	24,975.00	

"VI.

"(a) Que durante el año 1899, ademas de las cantidades expresadas y computadas en la liquidacion de 9 de Mayo de 1901, abono la compañía demandante por medio de sus sucursales en varias partes de las Islas Filipinas, en concepto de contribucion urbana, trescientos ochenta y dos pesos con treinta y nueve centimos mejicanos (\$382.39); y por contribucion industrial, setecientos veintitres pesos con ochenta y tres centimos mejicanos (\$723.83); total, mil ciento y seis pesos con veintidos centimos mejicanos (\$1,106.22).

"(b) Que durante el año de 1900, ademas de las cantidades expresadas y computadas en la liquidacion de 9 de Mayo de 1901, abono la compañía demandante por medio de sus sucursales en varias partes de las Islas Filipinas, en concepto de contribucion industrial, tres mil seiscientos veintisiete pesos con diez y nueve centimos mejicanos (\$3,627.19) y por contribucion urbana novecientos treinta pesos con cuarenta y cuatro centimos mejicanos (\$930.44), que hacen un total de cuatro mil quinientos cincuenta y siete pesos con sesenta y tres centimos mejicanos (\$4,557.63).

"(c) Que durante el año 1901, y en gran parte con posterioridad a la liquidacion de nueve de Mayo de 1901, ademas de las cantidades computadas en dicha liquidacion, abono la referida compañía demandante por su agencia en Manila y por medio de sus sucursales en varias partes de las Islas Filipinas, las siguientes sumas:

	Mejicano.	Oro.
Por contribucion industrial	\$11,175.37	
Por recargo en la misma contribucion	72.18	

Por contribucion urbana	1,277.97	
Por contribucion territorial		\$10,486.12
	<hr/>	<hr/>
Totales	12,525.52	10,486.12

“Siendo de advertir que en la suma pagada por contribucion territorial estan confundidas o incluidas la de \$219.09 oro pagada por impuesto de frentes, y la de \$122.63 oro pagada por contribucion urbana y no territorial.

“(d) Que durante el año 1902, abono la referida compañía demandante por su agencia en Manila y por medio de sus sucursales en varias partes de las Islas Filipinas, las siguientes sumas:

	Mejicano.	Oro.
Por contribucion industrial	\$11,065.60	
Por recargo en la misma contribucion	49.01	
Por contribucion industrial		\$844.37
Por contribucion territorial	4,413.11	
Por contribucion territorial		19,807.54½
Por recargos en contribucion territorial		2.21
	<hr/>	<hr/>
Totales	15,527.72	20,654.12½

“(e) Que durante el año 1903, abono la compañía demandante por medio de su agencia en Manila y por media de sus sucursales en varias partes de las Islas Filipinas, las siguientes sumas:

	Mejicano.	Oro.
Por contribucion industrial	\$21,556.53	
Por recargo en la misma contribucion	229.92	
Por contribucion territorial	11,277.47	
Por contribucion territorial		\$3,852.08
Por recargos en contribucion territorial		14.57
	<hr/>	<hr/>
Totales	33,063.92	3,866.65

“Adviertese que las cantidades pagadas en Manila por la compañía demandante durante los años expresados de 1901, 1902, y 1903, como se refiere en los

incisos (c), (d), y (e) que preceden, han sido por contribucion territorial y no por ningun otro concepto.

“Que en 13 de Abril de 1904, la demandante, bajo protesta y por evitar los procedimientos de apremio que se le anunciaron si no pagaba, pago a la demandada la suma de ochenta y ocho mil seiscientos noventa y ocho pesos, moneda filipina (P88,698) en concepto de contribucion industrial correspondiente a los años 1901, 1902, y 1903, a razon de veintinueve mil quinientos sesenta y seis pesos, mejicanos (\$29,566) al año, habiendose exigido dicho pago por la demandada, en concepto de gravamen de utilidades impuesto por el articulo 4 de la Tarifa 1.^a del Reglamento de dicha contribucion entonces vigente a razon del 5 por ciento de dos millones veinticinco mil pesetas españolas que como dividendo se repartio a los accionistas de la compañía demandante en cada uno de los expresados años, reducidas aquellas pesetas al cambio corriente de una peseta por P0.292, o sea al 46 por ciento, no obstante que las ganancias representadas por aquellos dividendos hayan sido obtenidas en los años 1900, 1901, y 1902.”

(Signed by the attorneys for the respective parties.)

From an examination of this agreed stipulation of facts, it will be seen that during the years 1898, 1899, 1900, 1901, 1902, and 1903 the plaintiff paid to the Collector of Internal Revenue and various provinces of the Archipelago, in addition to the *contribucion industrial*, a *contribucion territorial* and a *contribucion urbana*. The plaintiff claims that it was only required, under the laws in force in the Philippine Islands, to pay the industrial tax and this to be based upon the dividends declared by said plaintiff in favor of its stockholders. This contention of the plaintiff is based upon paragraph 4 of *tarifa primera* of the Industrial Tax Regulations, dated June 19, 1890. This regulation is as follows:

Banks and commercial corporations shall pay “5 per cent of the profits or dividends which may be distributed to the stockholders according to their respective balances.” This provision is qualified and explained by the following note appended to said article:

“NOTE.—The city tax which banks and mercantile associations included in the preceding paragraph have paid on the revenues of their property, will be computed as a part of the tax collectible on their dividends.”

It seems clear from the above-quoted provisions of said law that when banks and commercial associations have paid an industrial tax of 5 per cent upon the dividends declared, that they will thereby be relieved from the necessity of paying a *territorial* and an *urbana* tax. Therefore, under this law the plaintiff, being a commercial association, can not be required to pay more taxes in the form of *territorial* and *urbana* taxes after having paid an industrial tax in accordance with the above provisions of said Industrial Tax Regulations.

The case, however, presents another difficulty which we can not overlook. This action was brought to recover an excess of taxes from the city of Manila. By the agreed statement of facts whatever excess was paid, if any, was paid to the Department of Internal Revenue. It is not shown that the Department of Internal Revenue collected this money for the city of Manila; neither do the stipulated facts show that the city of Manila received all of the money so paid. Upon the contrary, however, the stipulated facts show that some of the money paid by the plaintiff was paid in various parts of the Philippine Islands.

During the existence of the sovereignty of Spain in the Philippine Islands, from the promulgation of the above Industrial Tax Regulations (1890) down to the transfer of the Philippine Islands to the sovereignty of the Government of the United States (1899) the fiscal system in the Insular Government was a highly centralized institution. There was one Government Treasury. All taxes levied and assessed by the Government were Insular taxes and all taxes collected throughout the Philippine Archipelago were covered into the Insular Treasury. When a tax levied by the general law was paid, it was paid once for all, whether paid in Manila to the agent of the Central Government or to the agent of the same Central Government in any of the other provinces of the Archipelago, and became, not the funds of the Province of Manila or of the other provinces, but the property of the Central Government. The taxes then were not collected by different entities such as cities, provinces, etc., on behalf of the particular entity, but were collected by said entities for and on behalf of the Central Government. The different governmental entities, such as provinces, etc., under the Spanish Government were not supported by taxes collected by themselves, for themselves, but were supported by appropriations out of the general fund so collected for the Central Government. This method of collecting taxes, it is assumed, continued during the first days of the American occupation of the Philippine Archipelago; at least, nothing has been called to our attention that shows that the former system had been changed during this period. Later, however, by acts of the Philippine Commission, this method of collecting taxes was somewhat modified. After several acts of the Philippine Commission providing for a method of collecting and distributing the various kinds of taxes, the said Commission, by section 1 (8) of Act No. 133, provided:

“SEC. 18. In all provinces organized under this act the urbana tax, the industrial tax, the stamp taxes, and the sum collected under the regulations for the cutting of timber upon public lands, and all other taxes known as inland-revenue taxes, shall cease to be levied and collected as revenue for the Central Government of the Archipelago from and after the 30th of June, 1901, and shall thereafter be collected as provincial and municipal taxes by the provincial treasurers. One-half of the taxes so collected shall be paid into the provincial treasury and the other half shall be paid into the treasuries of the respective municipalities in which they shall be collected, etc.”

It is clear, then, that whatever taxes the plaintiff paid prior to the 30th day of June, 1901, to the Province of Manila, or the other provinces of the Archipelago, were paid to the agent of the Central Government and certainly the city of Manila should not be required to refund said taxes, even granting that they were illegally collected.

With reference to the taxes paid by the plaintiff subsequent to the 30th of June, 1901, in Manila and the various provinces, granting that they were illegally collected, and granting that the city of Manila collected a part of them (which is not shown in the stipulated facts), certainly the city of Manila should not be called upon to refund more than it actually received. The stipulated facts do not show what part of the taxes paid to the plaintiff was paid to the city of Manila and what part to the various provinces. For this reason, granting that the plaintiff has paid more taxes than it should be required to pay under the law, we are unable to say from the record what portion of such illegal collections, if any, was collected or received by the city of Manila.

In the last paragraph of the stipulated facts the plaintiff admits that it paid “*en concepto de contribucion industrial*,” corresponding to the years 1901, 1902, and 1903, the sum of 88,698 pesos as taxes imposed upon the dividends declared by the said plaintiff, in accordance with paragraph 4 of tariff 1 of the Industrial Tax Regulations. This is a part of the amount which the plaintiff attempts to recover. It seems from the admission of the plaintiff in its stipulated facts that this amount was collected in accordance with the law of June 19, 1890. If that is so, certainly the plaintiff should not be permitted to recover this particular amount.

From the stipulated facts it appears that the plaintiff has been required to pay taxes which it should not have been required to pay in accordance with the provisions of the law of June

19, 1890. It does not appear, however, to whom these illegal taxes have been paid. It does not appear that all, or any part thereof, were paid to the city of Manila.

For these reasons the judgment of the lower court is reversed and the cause is hereby remanded to the lower court for a new trial, in order that the plaintiff may have an opportunity to show what part, if any, of such illegal taxes were actually collected and received by the city of Manila, the defendant in this cause, without making any declaration as to the costs of this proceeding. After expiration of twenty days from the notification of this decision, judgment will be entered in accordance herewith, and ten days thereafter the record will be remanded to the lower court for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Willard, and Tracey, JJ., concur.

Carson, J., reserves his vote.
