

## FIRST DIVISION

[ G.R. No. 150301, October 02, 2007 ]

**PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY,  
PETITIONER, VS. THE HONORABLE COURT OF APPEALS, THE  
HONORABLE REGIONAL TRIAL COURT, BRANCH 169, MALABON,  
METRO MANILA, THE MUNICIPALITY OF NAVOTAS, METRO  
MANILA, HON. FLORANTE M. BARREDO, IN HIS OFFICIAL  
CAPACITY AS MUNICIPAL TREASURER OF NAVOTAS, METRO  
MANILA, AND HON. NORBERTO E. AZARCON, IN HIS CAPACITY  
AS CHAIRMAN OF THE PUBLIC AUCTION SALE COMMITTEE OF  
NAVOTAS, METRO MANILA, RESPONDENTS.**

### D E C I S I O N

**AZCUNA, J.:**

This is a petition for review<sup>[1]</sup> of the decision and resolution of the Court of Appeals (CA), dated July 19, 2001 and September 19, 2001, respectively, in CA-G.R. CV No. 42472, entitled "Philippine Fisheries Development Authority v. The Municipality of Navotas, Metro Manila, et al."

The facts appear as follows:

The controversy arose when respondent Municipality of Navotas assessed the real estate taxes allegedly due from petitioner Philippine Fisheries Development Authority (PFDA) for the period 1981-1990 on properties under its jurisdiction, management and operation located inside the Navotas Fishing Port Complex (NFPC).

The assessed taxes had remained unpaid despite the demands made by the municipality which prompted it, through Municipal Treasurer Florante M. Barredo, to give notice to petitioner on October 29, 1990 that the NFPC will be sold at public auction on November 30, 1990 in order that the municipality will be able to collect on petitioner's delinquent realty taxes which, as of June 30, 1990, amounted to P23,128,304.51, inclusive of penalties.

Petitioner sought the deferment of the auction sale claiming that the NFPC is owned by the Republic of the Philippines, and pursuant to Presidential Decree (P.D.) No. 977, it (PFDA) is not a taxable entity.

In view of the refusal of PFDA to pay the assessed realty taxes, the matter was referred to the Department of Finance (DOF). On July 14, 1990 the DOF stated that:

This Department takes cognizance of the allegations of [the Office of the Mayor of Navotas] that PFDA has leased its properties to beneficial users, such as "businessmen, private persons and entities who are taxable persons." For this reason, it is imperative that the Municipality should

conduct an ocular inspection on the real properties (land and building owned by PFDA) in order to identify the properties actually leased and the taxable persons enjoying the beneficial use thereof. The ocular inspection is necessary for reason that the real properties, the use of which has been granted to taxable persons, for consideration or otherwise, are subject to the payment of real property taxes which must be paid by the grantees pursuant to the provisions ... of the Real Property Tax Code, as amended.

... Therefore, it is imperative to determine who the actual users of the properties concerned [are]. If used by a non-taxable person other than PFDA itself, it remains to be non-taxable. Otherwise, if said properties are being used by taxable persons, same becomes taxable properties. For this purpose, it is also incumbent upon PFDA to furnish the Municipality copies of the deed of lease or other relevant documents showing the leased properties and their beneficial users for proper assessment.<sup>[2]</sup>

Notwithstanding the DOF's instruction, respondent Municipality proceeded to publish the notice of sale of NFPC in the November 2, 1990 issue of *Balita*, a local newspaper.

On November 19, 1990, petitioner instituted Civil Case No. 1524 in the Regional Trial Court (RTC) of Malabon, Metro Manila against respondent Municipality, its Municipal Treasurer and the Chairman of the Public Auction Sale Committee. Petitioner asked the RTC to enjoin the auction of the NFPC on the ground that the properties comprising the NFPC are owned by the Republic of the Philippines and are, thus, exempt from taxation. According to petitioner, only a small portion of NFPC which had been leased to private parties may be subjected to real property tax which should be paid by the latter.

Respondent Municipality, on the other hand, insisted that: 1) the real properties within NFPC are owned entirely by petitioner which, despite the opportunity given, had failed to submit proof to the Municipal Assessor that the properties are indeed owned by the Republic of the Philippines; 2) if the properties in question really belong to the government, then the complaint should have been instituted in the name of the Republic of the Philippines, represented by the Office of the Solicitor General; and 3) the complaint is fatally defective because of non-compliance with a condition precedent, which is, payment of the disputed tax assessment under protest.

On December 8, 1990, the RTC issued a writ of preliminary injunction enjoining respondent Municipality from proceeding with the public auction.

On February 19, 1993, however, the RTC dismissed the case and dissolved the writ of preliminary injunction, thus:

[T]he plaintiff [petitioner] failed to present convincing evidence to support its claim of realty tax exemption and ownership of the property by the Republic of the Philippines as mandated by Sec. 9 of P.D. 464. Notwithstanding receipt of the notices of tax assessments from the defendants [public respondent], the plaintiff did not avail of the remedies under the law by raising on appeal the said tax assessments to the Local

Board of Assessment Appeals, then to the Central Board of Assessment Appeals and ultimately, to the Court of Tax Appeals. Instead, the plaintiff continuously ignored the notices of tax assessments on the pretext that the properties inside the NFPC are exempt from payment of real estate taxes as they are owned by the Republic of the Philippines. Assailing the validity of the tax assessments of the NFPC properties is not the proper recourse for the plaintiff but to pay first the tax assessments under protest and then raise the same on appeal to the Local Board of Assessment Appeals, then to the Central Board of Assessment Appeals, then ultimately, to the Court of Tax Appeals pursuant to the Real Property Tax Code.

The plaintiff failed in this regard, hence ... the Municipality, exercising its power to assess and collect taxes on real properties within its jurisdiction, did the right thing, that is, to schedule the NFPC properties for public auction. Furthermore, while the plaintiff is insisting that the NFPC properties are owned by the Republic of the Philippines, and is therefore exempt from payment of real estate taxes, yet it admitted that there are those lessees who leased portion[s] of the complex, and [it was] even willing to submit [a] list of these lessees ... for proper tax assessments.

. . .

WHEREFORE, premises considered, judgment is hereby rendered in favor of the defendant [public respondent Municipality of Navotas] and against the plaintiff, ordering:

1. The DISMISSAL of this case;
2. The preliminary injunction previously issued in this case DISSOLVED; and
3. The plaintiff to pay the defendant [public respondent] Municipality the sum of ₱13,767.00 as actual damages.

SO ORDERED.<sup>[3]</sup>

The CA affirmed the ruling of the RTC in a Decision dated July 19, 2001, the pertinent portions of which read:

The thrust of appellant PFDA's arguments has shoved to the fore the fact that the 67-hectare land on which the NFPC – Navotas Fishing Port Complex – stands was reclaimed from the sea which explains why it was bounded on the North by the Manila Bay, on the East by Roxas Boulevard, on the South by the Manila Bay and on the West, by the breakwater. Even the Municipality's counsel, Atty. Victorino Landas; Assessor, Arturo Coronel; and Treasurer, Florante Barredo have admitted that much, as pointed out by PFDA.<sup>[4]</sup> Such being the origin of the land, its ownership by the State as property of public dominion<sup>[5]</sup> can hardly be disputed.

The "reclaimed land; breakwaters; piers; wharves and quaywalls; and,

fish market building forming part of the Navotas Fish Port” were furthermore certified by the Undersecretary of Public Works and Highways<sup>[6]</sup> as belonging to the national government since they were built using the proceeds of the loan agreement entered into by and between the Republic of the Philippines and the Asian Development Bank on December 12, 1971.<sup>[7]</sup>

On August 11, 1976, the Philippine Fish Marketing Authority (PFMA) was created as a body corporate by P.D. No. 977 to carry out –

... the policy of the Government to promote the development of the fishing industry and improve efficiency in the handling, preserving, marketing and distribution of fish and fishery/aquatic products through the establishment and operation of fish markets and the efficient operation of fishing ports’ harbors and other marketing facilities.<sup>[8]</sup>

. . .

The PFMA was furthermore extended exemption from the payment of income tax in this tenor:

The authority shall be exempted from the payment of income tax.

The foregoing exemption may, however, be entirely or partly lifted by the President of the Philippines, upon recommendation of the Secretary of Finance, not earlier than five years from the approval of this Decree, if the President shall find the authority to be self-sustaining and financially capable to pay such tax after providing for debt service requirements of the authority and its projected capital and operating expenditures.<sup>[9]</sup>

Meanwhile, harbor operations at the Navotas Fishing Port Complex (NFPC) commenced on January 15, 1997 while the market operation started on April 3, 1977.

On February 8, 1982, P.D. No. 977 was amended by Executive Order No. 772. Insofar as material to the case at bar, the salient features of the amendments introduced by the E.O. are:

(a) The creation of the Philippine Fisheries Development Authority (PFDA) ... to replace the Philippine Fish Marketing Authority (PFMA).

. . .

(b) The capitalization of the PFDA has included the Navotas Fishing Port Complex (NFPC).

. . .

(c) The NFPC has been transferred to the exclusive jurisdiction, control, administration, and supervision of the PFDA.

. . .

There can, therefore, [be] no escaping the conclusion that the appellant PFDA became the owner of the Navotas Fishing Port Complex as of February 8, 1982. It cannot be any sooner because under P.D. No. 977, the NFPC was not made part of the capital of the Philippine Fish Marketing Authority (PFMA), PFDA's predecessor, as only the Navotas Fish Landing was made part of such capital while the Navotas Fishing Port and Fish Market were transferred merely to the "exclusive jurisdiction, control, administration, and supervision" of the PFMA. It was not then altogether clear if the Navotas Fishing Port Complex (NFPC) was conveyed to the PFMA.

. . .

Indeed, it is quite true that a property continues to be part of the public domain, and not available for alienation, private appropriation or ownership, until it is withdrawn from being such by the Government through the Executive Department or the Legislative,<sup>[10]</sup> and that it is not for the President to convey valuable real property of the Government on his own sole will as any such conveyance requires executive and legislative concurrence.<sup>[11]</sup>

But the stark reality is that at the time E.O. No. 772 was issued on February 8, 1982, President Marcos was exercising both executive and legislative powers.<sup>[12]</sup> Hence, his conveyance of the NFPC to form part of the capital of PFDA cannot but be valid.

The fact that the PFDA has up to now no certificate of title to the NFPC nor has the PFDA declared it for tax purposes is of no consequence. Such a certificate is merely an evidence of ownership and not the title itself,<sup>[13]</sup> while a tax declaration does not prove nor disprove ownership. What is significant is that the PFDA has openly declared and represented that it "*owns, maintains and operates*" the NFPC when it leased a portion thereof to the Frabelle Fishing Corporation on March 13, 1989.

All told, the PFDA being the owner of the NFPC beginning February 8, 1982 is liable for the realty taxes due thereon, its tax exemption being only from the payment of income tax.<sup>[14]</sup>

WHEREFORE, the appealed decision is AFFIRMED, without pronouncement as to costs.

SO ORDERED.<sup>[15]</sup>

Petitioner filed a motion for reconsideration but the same was denied by the CA.

Petitioner now raises the following arguments:

One, the CA acknowledged that the property in question is a reclaimed land. As such, it is a property of public dominion (Art. 420, Civil Code) and is owned by the