784 Phil. 753

THIRD DIVISION

[G.R. No. 197136, April 18, 2016]

ROMEO PUCYUTAN, FOR AND IN BEHALF OF THE CITY OF MUNTINLUPA, METRO MANILA AS ITS CITY TREASURER, PETITIONER, VS. MANILA ELECTRIC COMPANY, INC., RESPONDENT.

D E C I S I O N

PERALTA, J.:

For this Court's consideration is the Petition for Review on *Certiorari*,[1] under Rule 45 of the Rules of Court, dated July 4, 2011 of petitioner Romeo Pucyutan, for and in behalf of the City of Muntinlupa as its City Treasurer, seeking the reversal of the Decision[2] dated October 22, 2010 and Resolution[3] dated May 27, 2011, both of the Court of Appeals (CA) in CA G.R. SP No. 108266 that affirmed the Orders dated September 4, 2006[4] and October 14, 2008[5] of the Regional Trial Court (*RTC*) of Makati City ruling that respondent Manila Electric Company, Inc. (*MERALCO*) was not furnished with a notice of assessment.

The facts follow.

MERALCO, a duly-organized Philippine corporation engaged in the distribution of electricity, erected four (4) power-generating plants in Sucat, Muntinlupa, namely, the Gardner I, Gardner II, Snyder I and Snyder II from 1969 to 1972. Thereafter, on December 29, 1978, MERALCO sold all the said power-generating plants, including their landsites, to the National Power Corporation (*NAPOCOR*).

Sometime in 1985, the Assessor of Muntinlupa, while reviewing records pertaining to assessment and collection of real property taxes, allegedly discovered that for the period beginning January 1, 1976 to December 29, 1978, MERALCO misdeclared and/or failed to declare for taxation purposes a number of real properties consisting of several equipment and machineries found in the earlier mentioned power-generating plants. The Municipal Assessor, upon its review of the sale between MERALCO and NAPOCOR, found that the true value of the machineries and equipment in said power plants were misdeclared, and accordingly determined and assessed their value for taxation purposes for the years 1977 to 1978, as later reflected in Tax Declaration Nos. T-009005486 to T-05506.

A certification of non-payment of real property taxes was issued, and notices of delinquency were accordingly posted when MERALCO failed to pay taxes as assessed by said tax declarations and, on October 4, 1990, the Municipal Treasurer issued Warrants of Garnishment attaching MERALCO's bank deposits in three (3) different banks equivalent to its unpaid real property taxes.

Thereafter, MERALCO filed before the RTC a Petition for Prohibition with prayer for

Writ of Preliminary Mandatory Injunction and/or Temporary Restraining Order (*TRO*) which eventually reached this Court, and on June 29, 2004,[6] with the then Acting Municipal Treasurer Nelia A. Barlis as respondent, this Court rendered a Resolution that partly reads as follows:

> This Court finds and so rules that the RTC committed grave abuse of discretion amounting to excess or lack of jurisdiction in declaring that [MERALCO] is not the taxpayer liable for the taxes due claimed by [BARLIS]. Indeed, in its May 18, 2001 Decision, this Court ruled:
>
> > The fact that NAPOCOR is the present owner of the Sucat power plant machineries and equipment does not constitute a legal barrier to the collection of delinquent taxes from the previous owner, MERALCO, who has defaulted in its payment.
> > x x x
>
> However, the Court holds that the RTC did not commit any grave abuse of discretion when it denied [BARLIS1] motion to dismiss on the claim that for [MERALCO's] failure to appeal from the 1986 notice of assessment of the Municipal Assessor, the assessment had become final and enforceable under Section 64 of P.D. No. 454.
>
> Section 22 of P.D. No. 464 states that, upon discovery of real property, the provincial, city or municipal assessor shall have an appraisal and assessment of such real property in accordance with Section 5 of the law, irrespective of any previous assessment or taxpayer's valuation thereon. The provincial, city or municipal assessor is tasked to determine the assessed value of the property meaning the value placed on taxable property for *ad valorem* tax purposes. The assessed value multiplied by the tax rate will produce the amount of tax due. It is synonymous to taxable value.
>
> An assessment fixes and determines the tax liability of a taxpayer. It is a notice to the effect that the amount therein stated is due as tax and a demand for payment thereof. The assessor is mandated under Section 27 of the law to give written notice within thirty days of such assessment, to the person in whose name the property is declared. The notice should indicate the kind of property being assessed, its actual use and market value, the assessment level and the assessed value. The notice may be delivered either personally to such person or to the occupant in possession, if any, or by mail, to the last known address of the person to be served, or through the assistance of the barrio captain. The issuance of a notice of assessment by the local assessor shall be his last action on a particular assessment. For purposes of giving effect to such assessment, it is deemed made when the notice is released, mailed or sent to a taxpayer. As soon as the notice is duly served, an obligation arises on the part of the taxpayer to pay the amount assessed and demanded.
>
> If the taxpayer is not satisfied with the action of the local assessor in the assessment of his property, he has the right, under Section 30 of P.D. No. 464, to appeal to the Local Board of Assessment Appeals by filing a

verified petition within sixty (60) days from service of said notice of assessment. If the taxpayer fails to appeal in due course, the right of the local government to collect the taxes due becomes absolute upon the expiration of such period, with respect to the taxpayer's property. The action to collect the taxes due is akin to an action to enforce a judgment. It bears stressing, however, that Section 30 of P.D. No. 464 pertains to the assessment and valuation of the property for purposes of real estate taxation. Such provision does not apply where what is questioned is the imposition of the tax assessed and who should shoulder the burden of the tax.

Comformably to Section 57 of P.D. No. 464, it is the local treasurer who is tasked with collecting taxes due from the taxpayer. x x x

x x x x

In this case, [MERALCO] denied receiving copies of Tax Declarations Nos. B-009-5501 to B-009-5494 prepared by the respondent Municipal Assessor in 1985. In the face of [MERALCO's] denial, the respondent was burdened to prove the service of the tax declarations on the petitioner. While the respondent alleged in his Comment on the Petition at bar that the Municipal Assessor furnished the petitioner with copies of the said tax declarations on November 29, 1985, the only proof preferred by the respondent to prove such claim was the receipt signed by a certain Basilio Afuang dated November 29, 1985. The records foiled to show the connection of Basilio Afuang to the petitioner, or that he was authorized by the petitioner to receive the owner's copy of the said tax declaration from the Office of the Municipal Assessor. We note that the respondent even failed to append a copy of the said receipt in its motion to dismiss in the trial court. Conformably, this Court, in its May 18, 2001 Decision, declared as follows:

. . . The records, however, are bereft of any evidence showing actual receipt by petitioner of the real property tax declaration sent by the Municipal Assessor. However, the respondent in a Petition for Certiorari (G.R. No. 100763) filed with this Court which later referred the same to the Court of Appeals for resolution, narrated that "the municipal assessor assessed and declared the afore-listed properties for taxation purposes as of 28 November 1985." Significantly, in the same petition, respondent referred to former Municipal Treasurer Norberto A. San Mateo's notices to MERALCO, all dated 3 September 1986, as notices of assessment and not notices of collection as it claims in this present petition. Respondent cannot maintain diverse positions.

The question that now comes to [the] fore is, whether the respondent's Letters to the [MERALCO] dated September 3, 1986 and October 31, 1989, respectively, are mere collection letters as contended by the petitioner and as held by this Court in its February 1, 2002 Resolution; or, as claimed by the respondent and as ruled by this Court in its May 18, 2001 Decision, are notices of assessment envisaged in Section 27 of P.D. No. 464.

x x x x

The Court, in its February 1, 2002 Resolution, upheld the petitioner's contention and ruled that the aforequoted letter/notices are not notices of assessment evisaged in Section 27 of P.D. No. 464. Thus:

x x x x

Upon careful review of the records of this case and the applicable jurisprudence, we find that it is the contention of [MERALCO] and the ruling of this Court in its February 1, 2002 Resolution which is correct. Indeed, even the respondent admitted in his comment on the petition that:

> Indeed, respondent did not issue any notice of assessment because statutorily, he is not the proper officer obliged to do so. Under Chapter VII, Sections 90 and 90-A of the Real Property Tax Code, the functions related to the appraisal and assessment for tax purposes of real properties situated within a municipality pertains to the Municipal Deputy Assessor and for the municipalities within the Metropolitan Manila, the same is lodged, pursuant to P.D. No. 921, on the Municipal Assessor.

Consequently then, Sections 30 and 64 of P.D. No. 464 had no application in the case before the trial. The petitioner's action for prohibition was not premature. Hence, the Court of Appeals erred in rendering judgment granting the petition for *certiorari* of [BARLIS].

Moreover, the petitioner, in its petition for prohibition before the court *a quo*, denied liability for the taxes claimed by the respondent, asserting that if at all, it is the NAPOCOR, as the present owner of the machineries/equipment, that should be held liable for such taxes. The petitioner had further alleged that the assessment and collection of the said taxes had already prescribed. Conformably to the ruling of this Court in *Testate Estate of him vs. City of Manila*, Section 30 of P.D. No. 464 will not apply.

The Court further rules that there is a need to remand the case for further proceedings, in order for the trial court to sesolve the factual issue of whether or not the Municipal Assessor served copies of Tax Declarations Nos. B-009-05499 to B-009-05502 on [MERALCO], and, if in the affirmative, when [MERALCO] received the same; and to resolve the other issues raised by the parties in their pleadings. It bears stressing that the Court is not a trier of facts.[7]

Respondent therein, on August 5, 2004, moved for the reconsideration of this Court's June 29, 2004 Resolution, and on March 29, 2005,[8] this Court, En Banc "Denied with Finality," respondent Barlis' motion for reconsideration. The resolution partly reads:

> The Court shall now address the substantive issue raised by respondent Municipal Treasurer in his motion for reconsideration: "The applicability of

Section 64 is not dependent on the resolution of the issue of whether or not the petitioner was furnished with Notices of Assessment."

Section 64 of RPTC reads:

> Sec. 64. *Restriction upon power of court to impeach tax*. - No court shall entertain any suit assailing the validity of tax assessed under this Code until the taxpayer shall have paid, under protest, the lax 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 taxes, or of failure to perform their duties within the time specified for their performance unless such irregularities, informalities or failure shall have impaired the substantial rights of the taxpayer; nor shall any court declare any portion of the tax assessed under the provisions of this Code invalid except upon condition that the taxpayer shall pay the just amount of the tax, as determined by the court in the pending proceeding.

Respondent Municipal Treasurer adamantly asserts that whether or not petitioner MERALCO was furnished with a notice of assessment is not necessary for the applicability of the above provision. She hinges this assertion on the use of the term "tax assessed," not "tax assessment," in the above provision. This allegedly means that the moment a taxpayer is charged with the payment of a tax, he must pay the same under protest before he may file a suit in court.

Contrary to respondent Municipal Treasurer's stance, the determination of whether or not petitioner MERALCO was furnished with a notice of assessment is necessary in order that Section 64 of the RPTC would apply to its petition for prohibition before the court *a quo*. It must be recalled that the real property taxes sought to be collected by the City of Muntinlupa from petitioner MERALCO are based on the finding that it "misdeclared and/or failed to declare for taxation purposes a number of real properties, consisting of several equipment and machineries, found in the power plants." In other words, the said taxes are presumably based on "new or revised assessments" made by the respondent Municipal Treasurer. In this connection, Section 27 of the RPTC provides:

> Sec. 27. *Notification of New or Revised Assessments*. - When a real property is assessed for the first time or when an existing assessment is increased or decreased, the provincial or city assessor shall within thirty days give written notice of such new or revised assessment to the person in whose name the property is declared. The notice may be delivered personally to such person or to the occupant in possession, if any, or by mail to the last known address of the person to be served, or through the assistance of the barrio captain.

The term "tax assessed" in Section 67 should, thus, be read in relation to Section 27 because the particular words, clauses and phrases in a law should not be studied as detached and isolated expressions, but the