426 Phil. 280

SECOND DIVISION

[G.R. No. 114231, February 01, 2002]

MANILA ELECTRIC COMPANY, PETITIONER, VS. NELIA A. BARLIS, IN HER CAPACITY AS OFFICER-IN-CHARGE/ACTING MUNICIPAL TREASURER OF MUNTINLUPA, SUBSTITUTING EDUARDO A. ALON, FORMER MUNICIPAL TREASURER OF MUNTINLUPA, METRO MANILA, RESPONDENT.

R E S O L U T I O N

DE LEON, JR., J.:

Submitted for resolution is petitioner's Motion for Reconsideration of our Decision promulgated on May 18, 2001 affirming the Decision of the Court of Appeals dated August 11, 1993 and its Resolution dated February 28, 1994.

The said Decision of the Court of Appeals declared as void the June 17, 1991 Order of the Regional Trial Court (RTC) of Makati City, Branch 66, denying respondent Municipal Treasurer's Motion to Dismiss the petitioner's Petition for Prohibition.

In our Decision, we ruled, among others that the RTC had no jurisdiction to entertain petitioner's Petition for Prohibition to enjoin respondent Municipal Treasurer of Muntinlupa from garnishing petitioner's bank deposits to the extent of its unpaid real estate taxes inasmuch as petitioner did not comply with the legal requirement of paying under protest the taxes assessed against it as provided for in Section 64 of the Real Property Tax Code. We also held that the petitioner had no cause of action since its failure to question the notice of assessment before the Local Board of Assessment Appeals (LBAA) prior to the filing of the suit in the RTC was tantamount to a failure to exhaust administrative remedies.

In urging us to reconsider our Decision, petitioner questions our finding that what was sent to it by former Municipal Treasurers Norberto A. San Mateo and Eduardo A. Alon were the tax assessment notices contemplated by law and not mere collection notices. As movant-petitioner puts it, having received mere collection notices, how could petitioner avail of the proper administrative remedies in protesting an erroneous tax assessment before the LBAA?[1] Petitioner's argument merits our attention.

Anent movant-petitioner's allegation that the September 3, 1986 and October 31, 1989 notices were actually tax collection notices and not tax assessment notices as we found them to be, a second and more careful examination of the said notices leads us to concede that petitioner indeed has a point.

We reproduce hereunder a sample of one of the notices sent to petitioner.[2]

"_____Patalastas

"G/Gng. MANILA ELECTRIC COMPANY
Ortigas Avenue, Pasig
Metro Manila

Mahal na G./Gng.

"Ipinababatid po namin sa inyo na ayon sa talaan ng aming tanggapan, ang buwis sa mga ari-arian ng nakatala sa inyong pangalan ay hindi pa nakakabayad tulad ng nasasaad sa ibaba:

Tax Decl. No.	Location	Assessment	Year	Tax Due	Penalty	Total
B-009-05501	Sucat	P86,874,490	1976-78	6,515,586.75 +1,563,740.82	-	P8,079,327.57
B-009-05502	Sucat	P81,082,860	1977-78	4,054,143.00 +972,994.32	-	P5,027,137. 32
B-009-05503	Sucat	P75,291,220	1978	1,882,280.50 +451,747.32	-	P2,334,027.82 ----------
		TOTAL				P15,440,492.71

"Inaasahan po namin na di ninyo ipagwawalang bahala ang patalastas na ito at ang pagbabayad na nabanggit na buwis sa lalong madaling panahon. Ipinaaala-ala po lamang ang sino mang magpabaya o magkautang ng buwis ng maluwat ay isususbasta (Auction Sale) ng Pamahalaan ang inyong ari-arian ng sangayon sa batas.

"Subalit kung kayo po naman ay bayad na, ipakita po lamang ang katibayan ng pagbabayad (Official Receipt) at ipagwalang bahala ang patalastas na ito." (Underscoring supplied)

It is apparent why the foregoing cannot qualify as a notice of tax assessment. A notice of assessment as provided for in the Real Property Tax Code should effectively inform the taxpayer of the value of a specific property, or proportion thereof subject to tax, including the discovery, listing, classification, and appraisal of properties. The September 3, 1986 and October 31, 1989 notices do not contain the essential information that a notice of assessment must specify, namely, the value of a specific property or proportion thereof which is being taxed, nor does it state the discovery, listing, classification and appraisal of the property subject to taxation. In fact, the tenor of the notices bespeaks an intention to collect unpaid taxes, thus the reminder to the taxpayer that the failure to pay the taxes shall authorize the government to auction off the properties subject to taxes or, in the words of the notice, "Ipinaaala-ala po lamang, ang sino mang magpabaya o magkautang ng buwis ng maluwat ay isususbasta (Auction Sale) ng pamahalaan ang inyong ari-arian

ng naaayon sa batas."

The petitioner is also correct in pointing out that the last paragraph of the said notices that inform the taxpayer that in case payment has already been made, the notices may be disregarded is an indication that it is in fact a notice of collection.

Furthermore, even the Bureau of Local Government Finance (BLGF), upon whose recommendation former Municipal Treasurer Alon relied in the collection of back taxes against petitioner, deemed the September 3, 1986 notice as a "collection letter". Hence,

> "The Bureau should be informed of any recent action taken by MERALCO on the collection letter dated September 3, 1986 of that Office and whether NAPOCOR was also advised thereof and its reaction thereon, if any, for our record and reference."[3]

We therefore take this opportunity to correct that portion of our decision that declare the September 3, 1986 and October 31, 1989 notices to be tax assessment notices, to wit:

> "From the tone and content of the notices, the 3 September 1986 notices sent by Former Municipal Treasurer Norberto A. San Mateo to petitioner MERALCO are the notices of assessment required by the law as it merely informed the petitioner that it has yet to pay the taxes in accordance with the reassessed values of the real property mentioned therein. The 31 October 1989 notices sent by Municipal Treasurer Eduardo A. Alon to MERALCO is likewise of the same character. Only the letter dated 20 November 1989 sent by Municipal Treasurer Eduardo A. Alon to petitioner MERALCO could qualify as the actual notice of collection since it is an unmistakable demand for payment of back taxes."

We now hold that the September 3, 1986 and October 31, 1989 notices were actually notices of collection only as contended by petitioner.

In the instant Motion for Reconsideration, movant-petitioner also asseverates that contrary to the ruling of this Court that it is taking diverse positions,[4] it allegedly never admitted in its pleadings that the properties subject to tax were assessed and declared for taxation purposes as of November, 1985.

In petitioner's Petition for Prohibition before the trial court, it alleged, among others, that:

> "14. Respondent cannot levy additional real estate taxes without a prior reappraisal of the property and an amendment of the tax declaration by the Assessor. Assuming arguendo that there was such a re-appraisal made and new tax declarations issued, such re-appraisal shall operate prospectively and not retroactively as was done in this case;"[5] (Underscoring supplied.)

The pertinent allegations in petitioner's Petition for Review on Certiorari before this Court is of similar content, thus: