

SECOND DIVISION

[G.R. No. 114231, May 18, 2001]

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,[1]

RESPONDENT.

D E C I S I O N

DE LEON, JR., J.:

At the crux of this petition for review on *certiorari* under Rule 45 is the issue of whether or not the trial court has jurisdiction over a petition for prohibition which seeks to set aside the warrants of garnishment over petitioner's bank deposits in satisfaction of real property taxes, without paying under protest the tax assessed and without exhausting available administrative remedies.

In its 11 August 1993 Decision,^[2] the Court of Appeals ruled in the negative and declared void for lack of jurisdiction the 17 June 1992 Order of the Regional Trial Court^[3] as the petition for prohibition lacked sufficient cause of action and was filed without exhaustion of available administrative remedies. Thus, the petitioner seeks to set aside the appellate court's Decision and its 28 February 1994 Resolution denying his motion for reconsideration of its decision.

The facts are as follows:

From 1968 to 1972 the Manila Electric Company (MERALCO), a duly-organized corporation in the Philippines engaged in the distribution of electricity, erected four (4) power generating plants in Sucat, Muntinlupa, named as Gardner I, Gardner II, Snyder I and Snyder II stations. To equip the power plants, various machineries and equipment were purchased both locally and abroad. When the Real Property Tax Code took effect on 1 June 1974, MERALCO filed its tax declarations covering the Sucat power plants, the buildings thereon and the machineries and equipment therein. From 1975 to 1978 MERALCO paid the real property taxes on the said properties on the basis of their assessed value as stated in the tax declarations. On 29 December 1978 MERALCO sold all the power-generating plants including the landsite to the National Power Corporation (NAPOCOR), a corporation fully owned and controlled by the Philippine government.

In 1985, the Offices of the Municipal Assessor and Municipal Treasurer of Muntinlupa, while reviewing records pertaining to assessments and collection of real property taxes, discovered, among others, that MERALCO, for the period beginning 1 January 1976 to 29 December 1978, misdeclared and/or failed to declare for

taxation purposes a number of real properties, consisting of several equipment and machineries, found in the said power plants. A review of the Deed of Sale which MERALCO executed in favor of NAPOCOR when it sold the power plants to the latter convinced the municipal government of Muntinlupa of the misdeclaration/non-declaration of the true value of the said machineries and equipment. The Municipal Assessor of Muntinlupa then declared and assessed the subject real properties for taxation purposes and on 19 November 1985 furnished MERALCO their corresponding tax declarations.^[4] There was no response from MERALCO. Thereafter, on 3 September 1986, the then Municipal Treasurer of Muntinlupa, Norberto A. San Mateo issued several collection notices^[5] to MERALCO, ordering it to pay the deficiency in the real property taxes covering the machineries and equipment found in the said power plants. Still, MERALCO did not pay the tax assessed.

The Municipality of Muntinlupa sought the assistance of the Bureau of Local Government Finance-Department of Finance (BLGF-DOF), and a number of hearings were conducted with both MERALCO and the Municipality of Muntinlupa participating. Finally, on 14 August 1989, the BLGF-DOF issued a Letter-Endorsement declaring MERALCO liable to pay the deficiency or delinquent real property taxes claimed by the Municipality of Muntinlupa on the grounds that the properties were not declared for taxation purposes by MERALCO, and that they were not used in a new and preferred industry.^[6]

On the basis thereof, Municipal Treasurer Eduardo A. Alon forwarded a supplemental collection notice to MERALCO, dated 31 October 1989, demanding the immediate payment of thirty six million pesos (P36,000,000.00) of unpaid real property taxes inclusive of penalties and accrued interest.^[7] In addition, Municipal Treasurer Alon also sent a formal letter to MERALCO, dated 20 November 1989, reiterating his demand for tax payment.^[8]

Again, MERALCO did not pay. Accordingly, after issuing the requisite certification of non-payment of real property taxes and complying with the additional requirement of public posting of the notice of delinquency, Municipal Treasurer Eduardo A. Alon issued warrants of garnishment, copies of which were served on MERALCO on 10 October 1990, ordering the attachment of the bank deposits of MERALCO with the Philippine Commercial and Industrial Bank (PCIB), Metropolitan Bank and Trust Company (METROBANK) and the Bank of the Philippine Islands (BPI) to the extent of its unpaid real property taxes.^[9]

Immediately, MERALCO filed before the Regional Trial Court (RTC) of Makati, Metro Manila a Petition for Prohibition with Prayer for Writ of Preliminary Mandatory Injunction and/or Temporary Restraining Order (TRO) praying, among others, that a TRO be issued to enjoin the Municipal Treasurer of Muntinlupa from enforcing the warrants of garnishment. Thereupon, the trial court issued a TRO^[10] which, after hearing on the injunctive aspect of the case, was modified to the effect that the warrants of garnishment against the bank accounts shall be in full force and effect, provided, that the Municipal Treasurer shall not in the meantime collect, receive or withdraw the frozen bank deposits; and that MERALCO can withdraw from the frozen deposits provided that it does not leave a balance less than the tax claim of the Municipality of Muntinlupa.^[11]

On 17 October 1990 MERALCO filed an Amended Petition. For its part, the Municipal Treasurer filed a Motion to Dismiss on the grounds of: (1) lack of jurisdiction since, under Sec. 64 of the Real Property Tax Code, courts are prohibited from entertaining any suit assailing the validity of a tax assessed thereunder until the taxpayer shall have paid, under protest, the tax assessed against him; and (2) lack of cause of action by reason of MERALCO's failure to question the notice of assessment issued to it by the Municipality of Muntinlupa before the Local Board of Assessment Appeals. In its 17 June 1991 Order the trial court denied the said motion.^[12]

On a Petition for Certiorari filed before the Supreme Court, later endorsed to the Court of Appeals, the Municipal Treasurer of Muntinlupa assailed the Order of 17 June 1991 of the RTC.^[13] On 11 August 1993 the Court of Appeals in its Decision granted the petition declaring the assailed order "void and without life in law, having been issued without jurisdiction, on a petition that further does not state a sufficient cause of action, filed by a party who had not exhausted available administrative remedies."^[14] MERALCO moved for a reconsideration of the Decision, but was denied for lack of merit in a Resolution dated 28 February 1994.

Two (2) questions require our resolution, to wit: (a) Whether or not the RTC has jurisdiction over a petition for prohibition which seeks to set aside the warrants of garnishment over the bank deposits of petitioner MERALCO without payment under protest of the tax assessed as required in Sec. 64 of the Real Property Tax Code, as amended (RPTC, for brevity); and (b) Whether or not the Petition for Prohibition had no cause of action by reason of MERALCO's failure to exhaust available administrative remedies, i.e., to question the notice of assessment issued to it by the Municipality of Muntinlupa before the Local Board of Assessment Appeals prior to the filing of the said petition before the trial court.

Petitioner MERALCO maintains that the trial court has jurisdiction to entertain the Petition for Prohibition since it is not the taxpayer, referred to in Sec. 64 of the RPTC, required to make a protest payment of the tax assessed before a tax action may be taken cognizance of by the court. Petitioner reasons that by inference from Secs. 27 and 34 of the RPTC, the term "taxpayer" alludes to the property owner, a person in whose name the property is declared, or the owner or administrator, but not a previous owner which petitioner was at the time the notice of collection was sent to it. Hence, it argues that its protest payment of the tax assessed is not a condition precedent to the court's acquiring jurisdiction over its petition.

Petitioner further maintains that the trial court has jurisdiction over the Petition for Prohibition as it has sufficient cause of action - the annulment of the warrants of garnishment over its bank deposits in PCI Bank, METROBANK and BPI. Petitioner contends that it need not exhaust any administrative remedies, i.e., to appeal the tax assessment before the Local Board of Assessment Appeals since, first, the petition merely seeks to assail the validity of the issuance of the warrants of garnishment over its bank deposits, and not the tax assessment; second, it is not a taxpayer for purposes of appealing a real property tax assessment over the power plant machineries and equipment since it is no longer the owner thereof; and, third, even if it were to follow the prescribed remedies on protesting a tax assessment it had nothing to appeal since the respondent municipal treasurer issued notices of collection and not notices of assessment.

Petitioner contends that, assuming *arguendo*, what respondent sent were notices of assessment, such act was irregular since pursuant to Secs. 7 and 90 of the RPTC, it is only the provincial or city assessor, and the municipal deputy assessor, who has the authority to conduct and issue tax assessments, and not respondent municipal treasurer.

We find the petitioner's arguments to be without merit. The trial court has no jurisdiction to entertain a Petition for Prohibition absent petitioner's payment, under protest, of the tax assessed as required by Sec. 64 of the RPTC.^[15] Payment of the tax assessed under protest, is a condition *sine qua non* before the trial court could assume jurisdiction over the petition and failure to do so, the RTC has no jurisdiction to entertain it.

The restriction upon the power of courts to impeach tax assessment without a prior payment, under protest, of the taxes assessed is consistent with the doctrine that taxes are the lifeblood of the nation and as such their collection cannot be curtailed by injunction or any like action; otherwise, the state or, in this case, the local government unit, shall be crippled in dispensing the needed services to the people, and its machinery gravely disabled.

Petitioner is begging the question when it asserts that it is not the taxpayer contemplated under Sec. 64 of the RPTC. It is an accepted principle in taxation that taxes are paid by the person obliged to declare the same for taxation purposes. Under the Real Property Tax Code, the duty to declare the true value of real property for taxation purposes is imposed upon the owner, or administrator, or their duly authorized representatives.^[16] They are thus the taxpayers. When these persons fail or refuse to make a declaration of the true value of their real property within the prescribed period, the provincial or city assessor shall declare the property in the name of the defaulting owner and assess the property for taxation.^[17] In this wise, the taxpayer assumes the character of a defaulting owner, or defaulting administrator, or defaulting authorized representative, liable to pay back taxes.

Respondent Municipal Treasurer claims that petitioner MERALCO misdeclared and/or failed to declare the true value of the Sucat power plant machineries and equipment during the taxable years 1976-1978 when it was still the owner thereof, and that it is the deficiency in the realty tax on the real property's reassessed value which it seeks to collect. Based on the foregoing, the notice of assessment and collection was directed to petitioner, not because it is still the present owner of the subject real property including the machineries and equipment thereon, but because it is the defaulting owner thereof who has failed to make proper tax declaration and the proper tax payment thereon. Thus, petitioner is the taxpayer contemplated under Sec. 64 of the RPTC, and payment under protest of the tax assessed is necessary for the trial court to acquire jurisdiction over its petition.

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. In *Testate Estate of Concordia T. Lim v. City of Manila*,^[18] the Court held that the unpaid tax attaches to the property and is chargeable against the person who had