

560 Phil. 738

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^[1] 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 ₱23,128,304.51, 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.^[2]

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.^[3]

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.^[4] Such being the origin of the land, its ownership by the State as property of public dominion^[5] 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^[6] 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.^[7]

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.^[8]

...

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.^[9]

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,^[10] 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.^[11]

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.^[12] 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,^[13] 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.^[14]

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

SO ORDERED.^[15]

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 State. Notwithstanding this, the CA erroneously ruled that the government had validly transferred ownership of the land to PFDA in 1982 when P.D. No. 977 was amended by E.O. No. 772

by virtue of which the property became part of the assets of PFDA (Sec. 5 of E.O. No. 772);

Two, as a reclaimed land, the port complex should be considered a reserved land. In *NDC v. Cebu City*,^[16] the Supreme Court held that a reserved land is a public land that has been withheld or kept back from sale or disposition. The land remains an absolute property of the government. As its title remains with the State, the reserved land is tax exempt;

Three, in *Government v. Cabangis*^[17] and *Lampria v. Director of Lands*,^[18] this Court declared that the land reclaimed from the sea, as a result of the construction by the government of a breakwater fronting the place where it is situated, belongs to the State in accordance with Article 5 of the Law of Waters of 1866;

Four, petitioner merely operates the area or the NFPC complex in favor of the Republic of the Philippines. Section 4.A of P.D. No. 977, as amended by E.O. No. 772, provides that PFDA shall:

[M]anage, administer, operate, improve and modernize, coordinate and otherwise govern the activities, operation and facilities in the fishing ports, markets and landings that may hereinafter be placed under, or transferred to the Authority, and such other fish markets, fishing ports/harbors and infrastructure facilities as may be established under this Decree; to investigate, prepare, adopt, implement and execute a comprehensive plan for the overall development of fishing port and market complexes and update such plan as may be necessary from time to time; to construct or authorize the construction in the land area under its jurisdiction, of infrastructure facilities, factory buildings, warehouses, cold storage and ice plants, and other structures related to the fishing industry or necessary and useful in the conduct of its business or in the attainment of the purpose and objectives of this Decree; to acquire, hold and dispose real and personal property in the exercise of its functions and powers.

Lastly, the NFPC property is intended for public use and public service. As such, it is owned by the State, hence, exempt from real property tax.

The issue is whether petitioner is liable to pay real property tax.

Local government units, pursuant to the fiscal autonomy granted by the provisions of Republic Act No. 7160 or the 1991 Local Government Code, can impose realty taxes on juridical persons^[19] subject to the limitations enumerated in Section 133 of the Code:

SEC. 133. Common Limitations on the Taxing Power of Local Government Units. – Unless otherwise provided herein, the exercise of the taxing powers of

provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

...

- (o) taxes, fees, charges of any kind on the national government, its agencies and instrumentalities, and local government units.

Nonetheless, the above exemption does not apply when the beneficial use of the government property has been granted to a taxable person. Section 234 (a) of the Code states that real property owned by the Republic of the Philippines or any of its political subdivisions is exempted from payment of the real property tax “except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.”

Thus, as a rule, petitioner PFDA, being an instrumentality^[20] of the national government, is exempt from real property tax but the exemption does not extend to the portions of the NFPC that were leased to taxable or private persons and entities for their beneficial use.

This is in consonance with the ruling in *Philippine Fisheries Development Authority v. Court of Appeals*^[21] where this Court held that:

On the basis of the parameters set in the *MIAA [Manila International Airport Authority v. Court of Appeals]*^[22] case, the Authority should be classified as an instrumentality of the national government. As such, it is generally exempt from payment of real property tax, except those portions which have been leased to private entities.

In the *MIAA* case, petitioner Philippine Fisheries Development Authority was cited as among the instrumentalities of the national government ...^[23]

Indeed, the Authority is not a GOCC^[24] but an instrumentality of the government. The Authority has a capital stock but it is not divided into shares of stocks.^[25] Also, it has no stockholders or voting shares. Hence, it is not a stock corporation. Neither it is a non-stock corporation because it has no members.

...

The real property tax assessments issued by the City of Iloilo should be upheld only with respect to the portions leased to private persons. In case the Authority fails to pay the real property taxes due thereon, said portions cannot be sold at

public auction to satisfy the tax delinquency.

...

The port built by the State in the Iloilo fishing complex is a property of public dominion and cannot therefore be sold at public auction. Article 420 of the Civil Code provides:

ARTICLE 420. The following things are **property of public dominion**:

- (1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;**
- (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of national wealth.**

The Iloilo [F]ishing [P]ort [Complex/IFPC] which was constructed by the State for public use and/or public service falls within the term “port” in the aforesaid provision. Being a property of public dominion the same cannot be subject to execution or foreclosure sale.^[26] ... Whether there are improvements in the fishing port complex that should not be construed to be embraced within the term ‘port’ involves evidentiary matters that cannot be addressed in the present case. As for now, considering that the Authority is a national government instrumentality, any doubt on whether the entire IFPC may be levied upon to satisfy the tax delinquency should be resolved against the City of Iloilo.

Similarly, for the same reason, the NFPC cannot be sold at public auction in satisfaction of the tax delinquency assessments made by the Municipality of Navotas on the entire complex.

Additionally, the land on which the NFPC property sits is a reclaimed land, which belongs to the State. In *Chavez v. Public Estates Authority*,^[27] the Court declared that reclaimed lands are lands of the public domain and cannot, without Congressional fiat, be subject of a sale, public or private.^[28]

In light of the above, petitioner is only liable to pay the amount of P62,841,947.79 representing the total taxes due as of December 31, 2001 from PFDA-owned properties that were leased, as shown in the Summary of Realty Taxes Due Properties Owned and/or Managed by PFDA as per Realty Tax Order of Payment dated September 16, 2002.^[29]

WHEREFORE, the petition is **GRANTED**. The Decision and Resolution of the Court of Appeals, dated July 19, 2001 and September 19, 2001, respectively, in CA-G.R. CV No. 42472 are **SET ASIDE**. The Realty Tax Order of Payment issued by respondent Municipality of Navotas on September 16, 2002 is declared **VOID EXCEPT** as to the amount of ₱62,841,947.79 representing the total taxes due as of December 31, 2001 on the properties leased by petitioner to private parties. Respondent Municipality of Navotas is **DIRECTED** to refrain from levying on the Navotas Fishing Port Complex (NFPC) to satisfy the payment of the real property tax delinquency.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp.100-101.

[3] *Id.* at 95-96.

[4] Appellant’s Brief; CA Rollo, pp. 38-39.

[5] Article 420, Civil Code; *Government v. Cabangis*, 53 Phil. 112 (1929).

[6] Exhibit “L.”

[7] Exhibit “K.”

[8] Section 1, Presidential Decree No. 977.

[9] Section 10, *id.*

[10] *Ignacio v. Director of Lands*, 108 Phil. 316 (1960).

[11] *Laurel v. Garcia*, G.R. No. 92013, July 25, 1990, 187 SCRA 797.

[12] *Legaspi v. Minister of Finance*, No. L-58289, 115 SCRA 418.

[13] Noblejas and Noblejas, *Registration of Land Titles and Deeds*, 1992 ed., p. 4.

[14] *Supra* note 7, Section 10.

[15] Rollo, pp. 20-27.

[16] G.R. No. 51593, November 5, 1992, 215 SCRA 382.

[17] 53 Phil. 112 (1929).

[18] 67 Phil. 338 (1939).

[19] Section 193 of the Local Government Code expressly withdrew the tax exemption of all juridical persons “unless otherwise provided in this Code.”

[20] A national government instrumentality is an agency of the national government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some, if not all, corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter (Section 2 [10] of the Introductory Provisions of the Administrative Code). The PFDA (then Philippine Fish Marketing Authority/PFMA), pursuant to P.D. No. 977, as amended by E.O. No. 772, is tasked with the special function of promoting the development of the country’s fishing industry and improve the efficiency in handling, preserving, marketing, and distribution of fish and other aquatic products.

[21] G.R. No. 169836, July 31, 2007.

[22] G.R. No. 155650, July 20, 2006, 495 SCRA 591.

[23] Some of the national government instrumentalities vested by law with juridical personalities are: *Bangko Sentral ng Pilipinas*, Philippine Rice Research Institute, Laguna Lake Development Authority, Fisheries Development Authority, Bases Conversion Development Authority, Philippine Ports Authority, Cagayan de Oro Port Authority, San Fernando Port Authority, and Philippine National Railways.

[24] For an entity to be considered as a GOCC, it must either be organized as a stock or non-stock corporation. Two requisites must concur before one may be classified as a stock corporation, namely: (1) that it has capital stock divided into shares, and (2) that it is authorized to distribute dividends and allotments of surplus and profits to its stockholders. If only one requisite is present, it cannot be properly classified as a stock corporation. As for non-stock corporations, they must have members and must not distribute any part of their income to said members (*Supra* note 21, citing Agbayani, Commentaries and Jurisprudence on the Commercial Laws of the Philippines, vol. 3, 1998 edition, pp. 54-55).

[25] Sec. 5. Capitalization; Sinking Fund. The Authority shall have an authorized capital stock of Five Hundred Million Pesos (₱500,000,000.00) which shall be fully subscribed by the Republic of the Philippines, and the following amounts shall be paid in:

- (a) The net assets of the Authority, including the Navotas Fishing Port Complex, the valuation of which shall be determined jointly with the Office of Budget and Management and the Commission on Audit;
- (b) The amount corresponding to the balance of the programmed appropriations for the Authority for calendar year 1981; and
- (c) The amount corresponding to the programmed appropriations for the Authority for the calendar year 1982 (P.D. No. 977, as amended by E.O. No. 772).

The Authority is authorized to establish a sinking fund necessary to meet such obligations as may be incurred by the Authority. The annual contributions to the sinking fund shall come from the revenues derived from its fishing port complexes and, where such revenues are deficient, from such other corporate funds not otherwise intended for any specific purpose as may be designated by the Board. Unless otherwise directed ... shall invest the same in such manner as may be advantageous to the Authority.

[26] *Manila International Airport Authority (MIAA) v. Court of Appeals, supra* note 22.

[27] G.R. No. 133250, July 9, 2002, 384 SCRA 152.

[28] It is axiomatic that when public property is involved, exemption is the rule and taxation, the exception (*Social Security System v. City of Bacolod*, G.R. No. L-35726, July 21, 1982, 115 SCRA 412).

[29] Rollo, p. 212.

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