REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

NATIONAL WATERWORKS AND
SEWERAGE AUTHORITY (NWSA),
Petitioner,

- versus -

C.T.A. CASE NO. 555

August 4, 1960

BOARD OF ASSESSMENT APPEALS,
PROVINCE OF LAGUNA,
Respondent.

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# D E C I S I O N

This is an appeal from a decision of the Board of Assessment Appeals of the Province of Laguna, contained in Resolution No. 4, dated June 10, 1958, upholding the assessment of ₱227,324.22 issued by the Provincial Assessor of Laguna, dated March 4, 1958, on the water pipes, reservoirs, intake and buildings, used by the petitioner in the operation of its water works system in the municipalities of Cabuyao, Sta. Rosa, and Biñan, Province of Laguna. (Pars. 2 & 6, and Annexes A, A-1, & E, Petition for Review).

This case was submitted for decision on the following stipulation of facts filed by the parties:

"1. That the petitioner National Waterworks and Sewerage Authority (NWSA) is a public corporation created by virtue of Republic Act No. 1383, and that it is owned by the Government of the Philippines as well as all property comprising waterworks and sewerage systems placed under it;

"2. That, pursuant to the provisions of Republic Act No. 1383, petitioner NWSA took over all the property of the former Metropolitan Water District and all the existing local government-owned waterworks and sewerage systems all over the Philippines, including the Cabuyao-Sta. Rosa-Biñan Waterworks System, owned by the Province of Laguna (Sec. 6, Republic Act No. 1383);

"3. That the functions and activities of petitioner NWSA, as enumerated in Republic Act No. 1383, more particularly Section 2 thereof, are the same and identical with the functions of the defunct Metropolitan Water District, particularly Section 2, Act No. 2832, as amended;

"4. That petitioner National Waterworks and Sewerage Authority (NWSA) has no capital stock divided into shares or stocks, no stockholders, and is not authorized by its Charter to distribute dividends; and, on the other hand, whatever surplus funds it has realized, may and will realize from water rates paid by the public, after meeting its yearly obligations, have been, are and may be, used for the construction, expansion and improvement of its waterworks and sewer services;

"5. That at the time that the Cabuyao-Sta. Rosa-Biñan Waterworks System was taken over by petitioner NWSA in 1956, the former was self-supporting and revenue-producing, but that all its surplus income are not declared as profits as this surplus are or may be invested for the expansion thereof;

"6. That in the year 1956 the Provincial Assessor of Laguna assessed, for purposes of real estate taxes, the property comprising the Cabuyao-Sta. Rosa-Biñan Waterworks System and described in Tax Declaration No. 5987 (Exh. 'A-1') which, as stated in Paragraph 2 hereof, herein petitioner NWSA had taken over;

"7. That against the above-mentioned assessment made by the Provincial Assessor of Laguna, petitioner NWSA protested, claiming that the property described under Tax Declaration No. 5987 (Exh. 'A-1') are exempted from the payment of real estate taxes in view of the nature and kind of said property and functions and activities of petitioner, as provided in Republic Act No. 1383;

"8. That the said protest of petitioner NWSA was overruled on appeal before the herein respondent Board of Assessment Appeals, hence the present petition for review filed by petitioner;

"9. That Annexes 'A', 'A-1', 'B', 'C', 'D', 'D-1", "D-2", "D-3", "D-4" and "E", attached to the Petition, are hereby duly marked as Exhibits 'A', 'A-1', 'B', 'C', 'D', 'D-1' to 'D-4', 'E' for the Petitioner and made and admitted as integral parts of this Agreed Stipulation of Facts; that, likewise, attached hereto and made and admitted to form part of this Agreed Stipulation of Facts are the following documents duly marked for purposes of identification as Exhibits 'F', 'F-a', 'F-1', 'F-1a', 'G', 'H', 'H-1', 'I', 'J', 'K', 'K-1', 'L', 'L-a', 'L-1', 'L-1a' 'L-1b', 'L-1c', 'L-1d', 'L-2', 'L-3', 'L-4', 'L-4a', 'L-4b', 'L-5', 'L-5a', 'L-6', 'M', 'M-1', 'M-1a', 'M-2', 'N', 'N-1', 'N-2', 'N-3', 'N-4', 'N-5', 'N-5a', 'N-6', 'N-7', 'N-8', 'N-9', 'N-10', 'N-11', 'N-12', 'N-13', 'N-14', 'N-15', 'O', 'P', 'P-1', 'Q', 'R', 'R-1', 'R-2', 'R-3' and 'S' for Petitioner; and that all pleadings made by the parties are similarly made as integral parts hereof." (Agreed Stipulation of Facts., pp. 55-58, CTA rec.)

The only issue raised in this case is whether or not the properties in question upon which the disputed assessment was issued are exempt from the payment of real property tax.

In support of its contention that the properties in question, i.e. water pipes, water reservoirs, intake and buildings comprising the Cabuyao-Sta. Rosa-Biñan Waterworks System, are exempt from the real property tax, the petitioner avers:

"1. That the property in question are movable property; consequently, not taxable under the real property tax law;

"2. That, assuming arguendo that the property in question are immovable or real property, inasmuch as they are owned by the Government of the Philippines, they are exempt from realty taxes under Sec. 3 of Commonwealth Act No. 470, as amended;

"3. That, assuming further that the property in question do not belong to the Government but are owned by the petitioner, still they are not subject to realty or other taxes because they are property for public use on two scores: firstly, because they are public works for public service; and secondly, because they are property used in connection with petitioner's exercise and performance of governmental functions, vested to it by its Charter;

"4. That the provisions of Republic Act No. 104, requiring government-owned or controlled corporations to pay taxes on their activity, business or industry are not applicable to petitioner NWSA; consequently, said Act can not serve as proper basis for subjecting the property in question to real property tax law or other tax laws on that score." (Memorandum for Petitioner, CTA rec. pp. 136-137.)

On the other hand, the respondent contends that the properties in question are subject to real property tax on the ground that they are real properties, being immovable in nature. It is further advanced that the National Waterworks and Sewerage Authority (NWSA), not being "the government of the Republic of the Philippines and not exercising governmental function", may not claim exemption under Section 3 of the Assessment Law (Com. Act No. 470) which exempts from real property tax, property owned by the Republic of the Philippines, any province, city, municipality or municipal district. And inasmuch as the petitioner is engaged in a business for profit, it should be held liable for the payment of taxes pursuant to the provisions of Republic Act No. 104. Section 1 of said Republic Act states:

"SECTION 1. All corporations, agencies or instrumentalities owned or controlled by the Government shall pay such duties, taxes, fees and other charges upon their transaction, business, industry, sale or income as are imposed by law upon individuals, associations or corporations engaged in any taxable business, industry, or activity, except on goods or commodities imported or purchased and sold or distributed for relief purposes as may be determined by the President of the Philippines."

From the view that we take of the present case, we deem it not necessary to determine whether or not the properties in question are real or personal properties. We shall immediately consider the issue of whether or not said properties belong to and are owned by the Republic of the Philippines.

Prior to June 18, 1955, waterworks, sewerage and drainage systems throughout the country were undertaken by the Metropolitan Water District and the provinces, cities and municipalities. Somehow, Congress found out that a great number of these systems were constructed over twenty years ago and were allowed to deteriorate through neglect and lack of efficient and effective maintenance. The provinces, cities, municipalities and municipal districts concerned, owing to lack of funds and also by reason of the interference of local politics, could not pay for maintenance and operation, much more restore into operation what had been destroyed during the last world war (see Explanatory Note to House Bill No. 2026, which later became Republic Act No. 1383).

In order to provide for the protection of public health and sanitation, Congress enacted Republic Act No. 1383 creating a public corporation known as the National Waterworks and Sewerage Authority in whose control, direction and general supervision all waterworks, sewerage and drainage systems were consolidated and centralized. Consequently, the properties of all waterworks, sewerage and drainage systems owned, operated and paid for by provinces, cities and municipalities were transferred to the National Waterworks and Sewerage Authority. The properties in question which were formerly owned by the province of Laguna were among those properties transferred to the National Waterworks and Sewerage Authority by virtue of Republic Act No. 1383.

In fine, we are now confronted with the question of whether or not the properties in question which formerly belonged to the province of Laguna are now properties of the Republic of the Philippines. For purposes of real property tax, we are inclined to answer the question in the affirmative. The petitioner is wholly owned by the Republic of the Philippines so that its properties cannot but likewise be owned by the Republic of the Philippines. We are not unmindful of the fact that the petitioner, although given a separate and distinct personality, is merely an "agency of the Government under the Department of Public Works and Communications for administrative purposes". (Sec. 9, Rep. Act No. 1383.) Public property belonging to the state includes the property of all public departments or institutions of the state supported by taxation or public funds (Aplin v. Regents of University of Michigan, 83 Mich. 467, 47 N.W. 440, cited in Cooley Taxation, Vol. 2, Sec. 627, pp. 1322-1323). This rule applies to the property of a corporation or agency of which the state is substantially the corporator or principal, and which exists for governmental purposes (Nashville v. Bank of Tennessee, 1 Swan (Tenn.) 269).

Moreover, it is admitted by the respondent that the properties of the petitioner are owned by the Republic of the Philippines, thus:

> "That the petitioner National Waterworks and Sewerage Authority (NWSA) is a public corporation created by virtue of Republic Act No. 1383, and that it is owned by the Government of the Philippines as well as all property comprising waterworks and sewerage systems placed under it;" (Par. 1, Agreed Stipulation of Facts, CTA rec. p. 55.)

Having found the properties in question to be owned by the Republic of the Philippines, we are of the opinion that the same are exempt from real property tax pursuant to Section 3 (a) of Commonwealth Act No. 470, which states:

> "SEC. 3. Property exempt from tax. - The exemptions shall be as follows:
>
> (a) Property owned by the Republic of the Philippines, any province, city, municipality or municipal district. x x x"

In this connection, we take occasion to deliberate on the detrimental effect of the imposition of real property taxes on the properties used by the National Waterworks and Sewerage Authority in the performance of its function: to supply the people with sanitary and potable water. As has been stated elsewhere, Congress realized that the health and sanitation of the public was endangered due to the inability of the provinces, cities and municipalities to supply adequate potable water. To remedy the situation, it was thought wise by our legislators to consolidate and centralize the supervision and control of all waterworks, sewerage and drainage systems throughout the country under one office supported by the national government itself. Thus, was created the National Waterworks and Sewerage Authority, a public corporation supported and subsidized by public funds - funds derived from taxes. Said corporation, although deriving income from the sale of water, practically exists on taxes. And for it to pay taxes on its properties would be equivalent to burden, through taxation, what is being fed with taxes. The government should not, and under the present law, cannot tax its own property. (Manila Trading & Supply Co. vs. City of Manila, 45 Phil. 400.)

With respect to the contention of the respondent that the petitioner is liable for the payment of taxes pursuant to the provisions of Republic Act No. 104, we believe and so hold that said Act has no application to the case at bar. Republic Act No. 104 contemplates of taxes on the transactions, business, industry, sale or income of government owned or controlled corporations, agencies or instrumentalities whereas the instant case deals with a tax on the property of the petitioner.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the decision of respondent Provincial Board of Assessment Appeals of Laguna contained in its Resolution No. 4 of

DECISION -
C.T.A. CASE NO. 555



June 10, 1958 is hereby reversed. Without pronouncement as to costs.

SO ORDERED.

Manila, August 4, 1960.

AUGUSTO M. LUCIANO
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge