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April 1, 1963

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

INSTITUCION TERESIANA DE
EDUCACION Y CULTURA, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 1110

THE BOARD OF ASSESSMENT APPEALS
OF THE PROVINCE OF RIZAL, ET AL.,
Respondents.

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D E C I S I O N

Petitioner seeks to have its property declared exempt from realty taxation during the years 1958 to 1960 and to recover the total amount of ₱2,249.59 paid as real estate taxes for the said years.

There is no dispute as to the facts. Petitioner is a religious and educational corporation organized under the laws of the Philippines. Petitioner, as early as November 1957, decided to acquire a lot or lots on which to construct its school building and to open a school (Exhs. E & E-1). In consequence, it obtained the land in question from Ortigas and Co., partly by purchase on January 31, 1958 and the rest by donation on May 2, 1959.

The land having been previously assessed for taxation, petitioner paid, under protest, realty taxes thereon for the years 1958 to 1960 in the amount of ₱2,249.59.

For sometime after its acquisition, the land was vacant and unused. However, preparations for the construction thereon of a school building and a chapel were undertaken. Actual construction of the building began on September 8, 1959 and was completed in June, 1960. And on the latter date, the school opened classes.

Meanwhile, on or about November 15, 1959, petitioner requested the Provincial Assessor of Rizal to exempt the land in question from taxation beginning the year 1958, which request was denied by the latter. A subsequent request for reconsideration of the denial having been rejected, petitioner appealed to the Board of Assessment Appeals of Rizal which affirmed the decision of the Provincial Assessor.

From this decision of the Assessment Board, petitioner appealed to this Court, praying that the decision be modified to the end that its land be declared exempt from taxation commencing the year 1958 and that the amount of ₱2,249.58, paid as realty taxes for the years 1958 to 1960, be refunded to it.

The only issue raised for our consideration is whether the land in question is exempt from the payment of real estate taxes during the years 1958 to 1960.

Petitioner contends that the land in question is exempt from real estate taxes during the years 1958 to 1960. Upon the other hand, respondent maintains that the same is exempt only from the year 1961 as the same was used exclusively for educational purposes only from June, 1960.

Section 22 (3) of Art. VI of the Constitution and Section 3 (c) of Commonwealth Act No. 470 (Assessment Law), under which the tax exemption is sought to be justified, provide:

> "Sec. 22. x x x
>
> (3) Cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation."
> (Art. VI, Philippine Constitution.)
>
> "Sec. 3. Property exempt from tax.- The exemptions shall be as follows:
>
> x x x x x x x x x
>
> (c) Churches and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, scientific, or educational purposes."
> (Art. I, Com. Act No. 470.)

It must be borne in mind that the above constitutional and statutory provisions exempting lands, buildings and improvements used for religious and educational purposes find no common terminology in the exempting provisions of the constitutions of American states. (2 PAL 219.) For this reason, whether exemption of petitioner's land from realty taxation during the years 1958 to 1960 should be allowed or not is dependent on the language of the provisions, the determination of the meaning of which is appropriately a judicial function.

To our mind, the above provisions should be subject to a liberal rather than a strict rule of construction and interpretation. They should not receive a strained or unnatural interpretation (The Roman Catholic Apostolic Church in the Philippines vs. Hastings, 5 Phil. 702, 704).

Giving to the aforesaid provisions their ordinary meaning and in consonance with the intention behind their enactment, it may be said that the land in question has been used for educational purposes since its acquisition. It has been held as sufficient for tax-exemption that a church corporation acquires lands on which it intends in good faith to build a church plant within a reasonable time, employs an architect to prepare plans for the buildings, and thereafter, within a reasonable time, commences to build and completes the building (In re State vs. Second Church of Christ, Scientist, 185 Minn; 242, 240 N. W. 532.).

It may be said that, under the circumstances, petitioner's land was used for educational purposes since its acquisition. Petitioner had decided to secure land for its educational objectives as early as November, 1957. After two (2) months, or on January 31, 1958 at the earliest, it acquired a portion of the land and made preparations for the construction of a school building. Within a reasonable period, it started the construction of the school building which was completed in June, 1960.

However, while it may be said that petitioner's land was used exclusively for educational purposes from the moment it acquired the same, it is not entitled to exemption from the dates of acquisition. For under Section 21 of the Assessment Law, the real property tax for any year shall become due and payable on the first of January. Hence, not being exempt on the tax day, or on January 1st of the years the lots were respectively acquired, tax exemption on Lot 8-A began only in 1959, and on Lot 8-B-1 only in 1960.

> "If property is not exempt on the tax day, it is liable to taxation for the fiscal year although it afterwards becomes exempt. For instance, it has been decided that where land has become liable for taxes it remains so for that year although subsequently acquired for purposes rendering it exempt. So where a constitution forbidding exemptions goes into effect after the time fixed for the assessment of property, the right to exemption from taxation for that year is not affected. Conceding that the exemption from taxation in a particular case is not transferable, the transfer of exempt property after the tax day does not make it taxable for the current year, even though the property is not exempt in the hands of the transferee." (Cooley on Taxation, Vol. 2, 4th Ed., pp. 1499-1500.)

And although we hold that tax exemptions on Lots 8-A and 8-B-1 began in 1959 and 1960, respectively, we cannot order the refund of the realty taxes paid by petitioner for the period during which the lands are exempt for lack of jurisdiction. Claims of taxpayers for the refund of real estate taxes do not come under the appellate jurisdiction of the Court of Tax Appeals (City of Cabanatuan, et al., vs. The Hon. Magno S. Gatmaitan, et al., G. R. No. L-19129, Feb., 28, 1963).

WHEREFORE, finding the decision of the Board of Assessment Appeals of Rizal in error, the same is hereby modified to such extent that Lot 8-A covered by Tax Dec. No. 15744 (now Tax Dec. No. 21855) is exempt from real estate taxation commencing the year 1959, and Lot 8-B-1 covered by Tax Dec. No. 18066 only from the year 1960. Without pronouncement as to costs.

SO ORDERED.

Manila, April 1, 1963.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge