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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

MUNICIPAL BOARD, in Representation of the City of Cebu,
Petitioner,

July 20, 1961

- versus -

C.T.A. CASE NO. 851

BOARD OF ASSESSMENT APPEALS, and Agustin Jereza, for and in behalf of the University of Southern Philippines Foundation,
Respondents.

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D E C I S I O N

This is an appeal by the Municipal Board, in representation of the City of Cebu, from the decision of the Board of Assessment Appeals of the City of Cebu declaring six parcels of land leased to the University of Southern Philippines Foundation exempt from real property taxation as lands exclusively used for educational purposes.

On February 11, 1960, Agustin Jereza, for and in behalf of the University of Southern Philippines Foundation, applied to the City Assessor of Cebu City for exemption from payment of realty taxes of the following parcels of land situated in Cebu City, said parcels of land being used exclusively for educational purposes:

Lot No.	Tax Declaration No.
495-A & 495-B	73244
339	66203
340	41158
317	21754
313	13261

493	65827
460-A	108973
460-B	108972
342	95266
341	95265

(B.A.A. rec. p. 26.)

The City Assessor granted the application for exemption, except as to lots numbered 340, 317, 313, 460-B, 342 and 341.

Agustin Jereza appealed to the Board of Assessment Appeals of Cebu City the decision of the City Assessor with respect only to that portion denying exemption to lots numbered 340, 317, 313, 460-B, 342 and 341 (B.A.A. rec. pp. 1-4). In a decision dated May 30, 1960, the Board of Assessment Appeals reversed the decision of the City Assessor and declared lots numbered 313, 460-B, 340, 342 and 341 exempt from taxation (B.A.A. rec. pp. 44-50). However, for reasons not appearing on the face of the decision, no declaration or pronouncement was made as to lot No. 317.

Feeling itself aggrieved by the decision of the Board of Assessment Appeals, the Municipal Board of the City of Cebu, in representation of the same city, filed a petition for review before this Court on June 30, 1960.

The parties submitted the case for decision on a stipulation of facts, without presentation of further evidence. The stipulation of facts reads:

> 1. That Lots Nos. 340, 317, 313, 460-B, 341 and 342 are used exclusively for educational purposes by the University of Southern Philippines Foundation and not by the owners thereof;

2. That Lot No. 340 (Tax Declaration No. 82444), with an area of 189 square meters, assessed at ₱4,730.00, owned by Agustin Jereza is leased to the University of Southern Philippines Foundation for monthly rental of ₱50.00; that Lot No. 313 (Tax Declaration No. 106576), with an area of 377 square meters, assessed at ₱15,080, owned by Agustin Jereza, is leased to the Foundation for ₱40.00 per month; that Lot No. 341 (Tax Declaration No. 95265), with an area of 282 square meters, assessed at ₱7,050 and Lot No. 342 (Tax Declaration No. 95264), with an area of 309 square meters, assessed at ₱7,730, both owned by the heirs of Filomena Duterte, are both leased to the Foundation for ₱85.00 per month; and Lot No. 460-B (Tax Declaration No. 108972), with an area of 350 square meters, assessed at ₱12,250 and owned by Soledad D. Vda. de Sanson, is leased to the Foundation for the amount of ₱50.00 per month;

3. That the realty taxes due on the lots above-mentioned have been paid by the above-mentioned owners up to the year 1959;

4. That only the lots herein above-mentioned are the subject of this appeal;

5. That Lots Nos. 343, 495 A & B, 339 and 493 have been exempted by the City Assessor from the payment of realty taxes for the period beginning 1960, except the following:

(a) Lot No. 343 was exempted since 1948.

(b) Lot No. 460-A was exempted in 1952, being a part of the Colon Street widening;

6. That Lot No. 749 in the vicinity of the lots in question (See Sketch marked Exhibit B) originally belonging to Filemon Sotto and containing an area of 214 square meters was sold to Arsenio V. Madarang at ₱45.00 per square meter or the amount of ₱9,630.00 as per Deed of Absolute Sale dated April 27, 1959, certified true copy of which Deed of Sale is hereto attached and marked as Annex "A" in this stipulation of facts;

7. That Lot No. 390-B situated at the corner of Mabini and Colon Streets in the vicinity of the lots in question is presently leased by the owners to the Standard Vacuum Oil Company at ₱0.23 per square meter per month;

8. That the respondent Agustin Jereza is the President of the University of Southern Philippines Foundation;

9. That the University of Southern Philippines Foundation is a non-stock, non-profit corporation, as shown by a Certificate of Incorporation No. 15418, issued by the Securities and Exchange Commission on May 28, 1959;

10. That the heirs of Filomena Duterte, owner of Lots Nos. 341 and 342, are Beatriz de Jereza and Soledad D. Vda. de Sanson;

11. That Lots Nos. 495-A and B (Tax Declaration No. 106577), assessed at ₱108,800, with an area of 2,500 square meters; Lot No. 493 (Tax Declaration No. 106579, with an area of 627 square meters, assessed at ₱25,080, and Lot No. 339 (Tax Declaration No. 106578), with an area of 930 square meters, assessed at ₱37,200, all owned by Agustin Jereza, are leased to the University of Southern Philippines Foundation for nominal rents ranging from ₱1.00 to ₱5.00 per month;

12. That some of the incorporators of the said University of Southern Philippines Foundation are Agustin Jereza, Beatriz de Jereza and Soledad D. Sanson.

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(CTA rec. pp. 72-74.)

The main issues involved in this case are:

1. Whether or not the Municipal Board, in representation of the City of Cebu, can appeal an adverse decision of the Board of Assessment Appeals to this Court pursuant to Section 11 of Republic Act No. 1125;

2. Whether or not the Board of Assessment Appeals of the City of Cebu has the power to declare real properties exempt from the payment of realty tax;

3. Whether or not the University of Southern Philippines Foundation can ask an exemption from real property tax of properties owned by private individuals, but used by the said institution; and

4. Whether or not lots numbered 340, 317, 313, 460-B, 342 and 341, which are leased for a consideration by their owners to the University of Southern Philippines Foundation and used by the latter exclusively for educational purposes, are exempt from the payment of realty tax.

As regard the first issue, the pertinent provision of law is Section 11 of Republic Act No. 1125, which states:

> "Sec. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling."

x x x x

According to the above-quoted provision, any person, association or corporation adversely affected by a decision or ruling of the Board of Assessment Appeals may file an appeal in this Court within 30 days after the receipt of such decision or ruling. The right to appeal to this Court is limited to persons, associations or corporations contemplated in Section 11. And, the City of Cebu, although a duly constituted public corporation, much more the Municipal Board, does not fall within the meaning of the word "corporation". (The Province of Bataan and the Municipality of Limay, Bataan vs. Standard Vacuum Refining Corporation /Philippines/ and Board of Assessment Appeals, Bataan, C.T.A. Case No. 848, Resolution October 3, 1960.)

Furthermore, the City of Cebu is but a governmental agency. If the Government, itself, cannot appeal to this Court (Collector of Customs vs. The Court of Tax Appeals et al., G. R. No. L-8811, October 31, 1957), it follows that its agency or instrumentality cannot do likewise, for an agent or instrument cannot claim more powers than its principal.

In fine, if the City of Cebu cannot appeal to this Court for the reasons stated above, there is no plausible reason why the Municipal Board, one of its governmental branches, can do otherwise.

Finally, if we were to allow the Municipal Board to appeal to the Court of Tax Appeals, we would be deciding conflicts of opinion between agencies of the government contrary to the purpose for which this Court was created (see Ursal vs. Court of Tax Appeals, et al., G. R. No. L-1023 and Ursal vs. Court of Tax Appeals, et al., G. R. No. L-10355, April 26, 1957).

We, therefore, conclude that the Municipal Board of Cebu, in representation of the City of Cebu, cannot appeal the adverse decision of the Board of Assessment Appeals of Cebu City to this Court.

Having resolved the first issue adversely to the Municipal Board, we deem it unnecessary to pass upon the other issues.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the Petition for Review is, as it is hereby, dismissed. Without pronouncement as to costs.

SO ORDERED.

Manila, July 20, 1961.

MARIANO NABLE
Presiding Judge

I concur:

AUGUSTO M. LUCIANO
Associate Judge

I concur in the result.

ROMAN M. UMALI
Associate Judge