REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SAGITTARIUS MINES, INC.
Petitioners,

- versus -

HON. GERARDO C. BRAGANZA, in his capacity as Presiding Judge of the Regional Trial Court, Branch 43, Koronadal City, South Cotabato, MUNICIPALITY OF TAMPAKAN, SOUTH COTABATO, and OFFICE OF THE MUNICIPAL TREASURER OF TAMPAKAN, SOUTH COTABATO,
Respondents.

CTA CASE NO. SCA-0003
(formerly: CTA No. AC-274)

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

NOV 15 2023 9:05 am

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RESOLUTION

CUI-DAVID, J.:

For resolution is respondents Municipality of Tampakan, South Cotabato and Office of the Municipal Treasurer of Tampakan, South Cotabato (municipal respondents)' *Motion for Reconsideration* filed *via* registered mail on September 4, 2023, with petitioner Sagittarius Mines, Inc. (petitioner)'s *Omnibus Motion (1) To Expunge the Motion for Reconsideration dated 04 September 2023; and (2) For Issuance of Entry of Judgment* filed on October 11, 2023.

Municipal respondents assail the Decision dated August 10, 2023 (assailed Decision) with the following dispositive portion:

> **WHEREFORE,** the *Petition for Certiorari* is **PARTIALLY GRANTED**. The Order dated October 14, 2022, issued by the Regional Trial Court (RTC), Branch 43, Koronadal City, South Cotabato, in Civil Case No. 2417-43, is **ANNULLED** and **SET ASIDE** for having been issued with grave abuse of discretion.
>
> On the other hand, the Resolution dated September 29, 2022, issued by the RTC, is **REINSTATED** insofar as it enjoined the municipal respondents, their representatives, agents, and/or any other persons acting on their behalf from implementing the assessment against petitioner amounting to ₱397,697,014.93, subject to the posting of the appropriate bond to be determined by the RTC until the *Petition for Review* in Civil Case No. 2417-43 shall have been resolved with finality.
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> Accordingly, the municipal respondents, their representatives, agents, and/or any other persons acting on their behalf are **ORDERED** to issue petitioner with the necessary business permit to operate as a manufacturer effective April 1, 2022 until December 31, 2022.
>
> **SO ORDERED.**

Municipal respondents claim, for the first time, that both the Regional Trial Court (RTC) Branch 43, Koronadal City, South Cotabato, and this Court have no jurisdiction over this case as it involves the question of the validity of an ordinance related to mining. As such, the jurisdiction lies with RTC Branch 35, General Santos City, a special court that tries and decides violations of environmental laws under Supreme Court (SC) Administrative Order No. 23-2008.[1]

Further, municipal respondents aver that the Court has no jurisdiction over this case for petitioner's failure to question Municipal Ordinance No. 66 before the Department of Justice (DOJ) under Section 187 of the Local Government Code (LGC).

[1] RE: DESIGNATION OF SPECIAL COURTS TO HEAR, TRY AND DECIDE ENVIRONMENTAL CASES, January 28, 2008.

Also, municipal respondents insist that the regulatory fees and charges imposed against petitioner cannot be considered as taxes because before they issue a permit to petitioner for the construction of roads, buildings, etc., the municipality will use its workforce to inspect the facilities at regular intervals; hence, the rate of the regulatory fees is based on the area utilized by petitioner.

On the other hand, petitioner claims that municipal respondents' *Motion for Reconsideration* is filed out of time and prays for the immediate issuance of an Entry of Judgment considering that the assailed Decision has become final and executory.

Petitioner refutes that this case is not an environmental case as the material allegations and relief it prayed for before the RTC was for the issuance of a temporary restraining order enjoining municipal respondents to collect the alleged deficiency taxes and from taking further action on the Letters of Assessment. Even assuming that this is an environmental case, the RTC still has jurisdiction over the case since the designation of special courts to hear, try, and decide environmental cases under SC Administrative Order No. 23-2008 did not diminish the jurisdiction of regular courts to hear, try, and decide the same.

Petitioner also argues that seeking recourse with the DOJ is procedurally invalid since it need not question the validity of Municipal Ordinance No. 66 because its provisions that municipal respondents used in making the subject deficiency tax assessments have been repealed by Municipal Ordinance No. 67. Its petition pertains exclusively to the validity of the subject deficiency tax assessments made under the repealed provisions of Municipal Ordinance No. 66. In fact, it was the municipal respondents who questioned the validity of an ordinance, that is Municipal Ordinance No. 67.

Petitioner argues that this Court correctly classified the subject impositions as taxes as their primary intent is revenue generation. The exorbitant sum of the Mayor's permit fee and other regulatory fees for contractors of a large-scale tenement area exceeds the limitations set under the LGC. It has no reasonable relation to municipal respondents' actual cost of licensing, regulation, surveillance, monitoring, and inspection.

Lastly, petitioner opines that municipal respondents are estopped from questioning the jurisdiction of the RTC since they actively participated in the proceedings by invoking the authority of the RTC and praying for affirmative relief.

We resolve.

Records show that counsel for municipal respondents received the assailed Decision on August 19, 2023. Counting fifteen (15) days therefrom, municipal respondents had until September 4, 2023,[2] to file their motion for reconsideration. Municipal respondents filed their *Motion for Reconsideration* on September 4, 2023; hence, timely filed.

Contrary to municipal respondents' assertion, the RTC has jurisdiction over the case as it pertains to a local tax case. A local tax case is a dispute between the local government unit (LGU) and a taxpayer involving the imposition of the LGU's power to levy tax, fees, or charges against the property or business of the taxpayer concerned.[3] A local tax case involves disputed assessments, surcharges or penalties, and the validity of a tax ordinance, among others, which are among the issues raised before the RTC. Thus, the RTC correctly acquired jurisdiction over the case.

Also, the Court has jurisdiction over the petition for *certiorari* filed by petitioner assailing the interlocutory order issued by the RTC in a local tax case as acknowledged by the Supreme Court in the *City of Manila v. Judge Grecia-Cuerdo*.[4]

As to whether the regulatory fees amounting to ₱397,697,014.93 may be treated as taxes, the case of *Saldana v. City of Iloilo*, cited by *Progressive Development Corp. v. Quezon City*,[5] is on point:

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[2] The 15th day fell on September 3, 2023, which is a Sunday.
[3] *Mactel Corporation v. The City Government of Makati, et al.*, G.R. No. 244602, July 14, 2021.
[4] G.R. No. 175723, February 4, 2014.
[5] G.R. No. L-36081, April 24, 1989.

> **Judging from the amount of the fees fixed in the ordinances in question, we do not hesitate to find and to hold that the so-called fees were in reality <u>taxes</u> for city revenue**. For instance, the ₱10.00 fee for every head of large cattle, whether alive or slaughtered, and the ₱5.00 fee for every pig, goat, or sheep, whether alive or slaughtered, cannot possibly be considered as mere expense incurred for, or the cost of the inspection of each animal and the issuance of the corresponding permit. If a pig, goat, or sheep costs, say, ₱15 or even ₱20, then the ₱5.00 fee would constitute quite a considerable slice or portion of said cost; and if the animals and articles listed in the ordinances were sent out from the City of Iloilo in large quantities and numbers, there would be no doubt that **the fees collected would amount to a sizable sum and augment greatly the revenues of the municipal corporation, way in excess of the cost of inspections and the issuance of the permits**. [*Emphasis supplied*]

Under Section 131[6] of the LGC, a "fee" is defined as "any charge fixed by law or ordinance for the regulation or inspection of a business or activity." Since the assessed Mayor's permit fees and other regulatory fees exceed the cost of inspection and regulation, it may be held as tax. It is even held that an ordinance that imposes fees that are substantially in excess of the reasonable expense of issuing the license and regulating the occupation to which it pertains is invalid.[7]

The issue as to whether petitioner is a manufacturer is a question of fact that must be addressed by the RTC Branch 43 and not this Court. As this petition emanated from petitioner's allegation of grave abuse of discretion on the part of respondent Judge in denying petitioner's writ of preliminary injunction under Rule 58 of the Revised Rules of Court, the Court is confined only to the determination of the existence of compelling reasons under said rule.

We also reiterate that municipal respondents cannot collaterally attack the validity of their own Municipal Ordinance No. 67, more so in a hearing on petitioner's application for the issuance of a preliminary injunction. Nor is this the proper proceeding where the alleged infirmity of the said ordinance may

Mr

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[6] SEC. 131. *Definition of Terms*. - When used in this Title, the term: ...
(l) "Fee" means a charge fixed by law or ordinance for the regulation or inspection of a business or activity; ...
[7] *First Philippine Holdings Corp. v. Securities and Exchange Commission*, G.R. No. 206673, July 28, 2020.

be raised. Public policy forbids collateral impeachment of legislative acts.[8]

In all, the Court finds that a preliminary injunction should be granted where its effect is to re-establish and maintain a pre-existing continuing relation between the parties, recently and arbitrarily interrupted by the defendant, and not to establish a new relation.[9] A preliminary injunction, mandatory or prohibitory, preserves the status *quo* between litigants to prevent possible violation of a party's rights.[10]

Hence, this Court considered it necessary to enjoin municipal respondents from implementing the deficiency assessment until the Petition for Review before the lower court is resolved with finality because the continuance of the acts of municipal respondents would render the judgment in the main case ineffectual.

WHEREFORE, municipal respondents' *Motion for Reconsideration* filed on September 4, 2023, and petitioner's *Omnibus Motion (1) To Expunge the Motion for Reconsideration dated 04 September 2023; and (2) For Issuance of Entry of Judgment* filed on October 11, 2023, are **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[8] *San Miguel Brewery, Inc. v. Francisco Magno*, G.R. No. L-21879, September 29, 1967.
[9] *Heirs of Yu v. Court of Appeals*, G.R. No. 182371, September 4, 2013.
[10] *Heirs of Gacutan v. Sucaldito*, G.R. No. L-40069, August 11, 1988.