REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JUAN S. ALANO MEMORIAL
HOSPITAL, INC. (formerly the Basilan Hospital, Inc.),
Petitioner,

- versus -

C.T.A. CASE No. 2174

ANTOLIN TAN SANCHEZ, CITY
TREASURER-ASSESSOR and THE
BOARD OF ASSESSMENT APPEALS
OF BASILAN CITY,
Respondents.

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Nov 29/71

D E C I S I O N

This is an appeal from the decision of the Board of Assessment Appeals of Basilan City affirming that of the Treasurer-Assessor of said City declaring the land and building covered by Tax Declarations Nos. 8633 and 403, respectively, owned by the Basilan Estates, Inc. and leased to petitioner, subject to real property tax.

Petitioner, a corporation duly organized and existing under and by virtue of the laws of the Philippines, is owned by the family of the late Congressman Juan S. Alano of Basilan City. Aside from operating a hospital and school of midwifery, petitioner is the administrator of all the real properties of the Basilan Estates, Inc., a corporation also owned by the Alano family. Petitioner leased from the Basilan Estates, Inc. the land and building used for its hospital and school of midwifery as well as the various hospital equipments and facilities for a term of ninety-nine (99) years from 1953 at the nominal amount of one peso (₱1.00) annually.

In a letter dated April 29, 1953, petitioner, as administrator of the Basilan Estates, Inc., applied for exemption from realty tax of the properties occupied and used by it, "consisting of a hospital building, doctor's quarters, a nurses' quarters and the parcel of land occupied by the same." Acting on said application, the City Treasurer-Assessor of Basilan City issued Tax Declaration No. 4197 (cancelling Tax Dec. No. 2717) covering the land with assessed value of ₱8,650.00, Tax Declaration No. 4090 for the hospital building with assessed value of ₱22,600.00, and Tax Declarations Nos. 4140, 4192 and 4142 for the newly assessed properties and marked all these tax declarations as "EXEMPTED" effective 1954.

On October 27, 1966, petitioner acknowledged receipt of two pre-assessment notices from the City Treasurer-Assessor of Basilan City reclassifying the land and hospital building aforementioned from "exempt" to "taxable" and increasing the assessed value to ₱188,320.00 and ₱374,400.00, respectively. On the same date, petitioner protested the said pre-assessment notices, but instead of answering petitioner, the City Treasurer-Assessor of Basilan City issued new Tax Declaration No. 8633 covering the land (cancelling Tax Dec. No. 4197) with assessed value of ₱188,320.00 and Tax Declaration No. 403 covering the hospital building (cancelling Tax

Declaration No. 4090) with assessed value of ₱374,400.00 based on the new schedule of values of real property for the City of Basilan as approved by the Department of Finance. Accordingly, petitioner's compound, known as the J. S. Alano Compound, was reclassified into several categories. The lot within 30 meters from the main street known as Rizal Avenue and where the school of midwifery and the dormitory for nurses are located was reassessed as "First Class Residential" and the lot where the hospital building is located as "Second Class Commercial" with an assessed value of ₱80,700.00 and ₱107,620.00, respectively, or a total of ₱188,320.00 on the lot. The hospital building was reassessed at ₱374,400.00. Notices of the new assessment were given to petitioner for the hospital building and to the Basilan Estates, Inc. for the land.

In a letter dated April 3, 1967, petitioner, as administrator of the Basilan Estates, Inc., filed with the Board of Assessment Appeals of Basilan City a petition for review of the assessment of the City Treasurer-Assessor. On April 14, 1970, the Board of Assessment Appeals rendered its decision declaring petitioner liable to realty tax on the land and building. On April 28, 1970, petitioner filed a motion for reconsideration of the Board's decision which was denied in its resolution dated August 27, 1970. Hence, this appeal.

At this juncture, it is well to note that respondents, in their memorandum filed with this Court, are questioninging the personality of petitioner to ask for exemption of the land on which the hospital building is erected on the ground that it is not the owner but only a mere lessee thereof. Apparently, respondents have conceded that petitioner is actually a lessee of the land. Also noteworthy is the fact that the personality of petitioner to ask for exemption of the hospital building is not being put in issue although it is our finding, based from the records of this case, that the land and the hospital building are both owned by the Basilan Estates, Inc.

The issues posed for our resolution are:

1. Whether or not petitioner has the personality to ask for the exemption of the land owned by the Basilan Estates, Inc.;

2. Whether or not the land and building in question are exclusively used for charitable purposes and therefore exempt from realty tax; and

3. If the land and building are subject to realty tax, whether or not their assessments represent the true and full value of said properties.

Respondents question the personality of petitioner to ask for the exemption of the land in question from realty tax on the ground that it is a mere lessee and not the owner thereof. In short, it is argued that petitioner is not the real party in interest to apply for the exemption.

We are not unmindful of the rule that an action must be prosecuted not only by the real party in interest, but in the name of the real party in interest, and not in the name of a representative, unless this is expressly authorized by the rules or by the law. We are, however, of the opinion that considering all the facts and circumstances of this case, petitioner has the personality to ask for the exemption of the land on which the hospital building is erected. The evidence and records of this case indubitably show that petitioner and the Basilan Estates, Inc. are owned and controlled by one and the same family, the Alano family of Basilan City; that the site of its hospital and all the buildings erected thereon are owned by the Basilan Estates, Inc.; that petitioner is not only the lessee but also the administrator of all the real properties of the Basilan Estates, Inc.; and that petitioner appealed to the respondent Board of Assessment Appeals as administrator of all the real properties of Basilan Estates, Inc. Consequently, we can safely assume that the appeal to this Court by petitioner is equivalent to an appeal by Basilan Estates, Inc. Besides, it is now too late for respondents to question the capacity of petitioner when the same could have been raised by the respondent City Treasurer-Assessor when he denied the protest against the assessment; or it could have been raised before the respondent Board of Assessment Appeals, or during the trial of this case in this Court. It has been ruled that where the complaint failed to state a cause of action for lack of sufficient interest on the part of plaintiff and the same was not raised at all in the trial court but only on oral argument in the Court of Appeals, it must be considered waived. (Municipal Board, in representation of the City of Cebu vs. Board of Assessment Appeals, CTA Case No. 851, Jan. 23, 1967; Reyes vs. Court of Appeals, G.R. No. L-5618, July 31, 1954.)

We will now come to the issue as to whether or not petitioner is a charitable institution exempt from real property tax. The pertinent constitutional and statutory provisions relied upon by petitioner are hereinbelow quoted for convenience:

> SEC. 14. x x x x x x
>
> (3) Cemeteries, churches, and personages 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, underlining supplied.)
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> SEC. 3. Property exempt from tax.-The exemption shall be as follows:
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> 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. 1, Com. Act No. 470, underlining supplied.)[1]

Petitioner contends that it is a charitable institution and therefore exempt from realty tax under the aforequoted provisions. On the other hand, respondents argue against the exemption on the ground that petitioner is not a charitable institution but a corporation actually engaged in business for profit.

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[1] Taxation of real property in the City of Basilan is governed by Commonwealth Act No. 470 pursuant to Sec. 24, Rep. Act No. 288.

It has been sufficiently proven that petitioner was organized for charitable or benevolent purposes. As contained in its articles of incorporation, petitioner is a "non-sectarian, non-racial and non-profit" institution (Exh. A-2, p. 36, BAA rec.), and its by-laws provides that it is a charitable or benevolent or non-profit corporation (Exh. B-3, p. 40, BAA rec.). It has been ruled that the "main evidence of the purpose of a corporation should be its articles of incorporation and by-laws, for such purpose is required by statute to be stated in the articles of incorporation and the by-laws outline the administrative organization of the corporation, which, in turn is supposed to insure and facilitate the accomplishment of said purpose." (Jesus Sacred Heart College vs. Coll., 95 Phil. 16.) Being organized as a charitable institution, the presumption is that it is operated as such, the burden of proof being on the respondents to show that it is operating otherwise. (Hospital de San Juan de Dios, Inc. vs. Pasay City, 16 SCRA 226.) The evidence and records of this case do not show that respondents have satisfactorily discharged this burden. On the contrary, it has been clearly shown to our satisfaction that the income realized from pay patients by petitioner was spent for the maintenance of the charity wards and for payment of the wages and salaries of the hospital staff and the surplus, if any, is plowed back for the improvement of the hospital and its facilities; that the chairman of the Board of Trustees and other officers of petitioner do not receive compensation (Exhs.

B-3 & B-4, p. 40, BAA rec.); and that as a non-stock corporation no part of its income inures to the benefit of any private individual (p. 39, t.s.n., hearing of Aug. 5, 1971). These circumstances clearly show that petitioner is a charitable institution.

It is advanced by respondents that petitioner is not a charitable institution because per hospitalization contract between the Basilan City and petitioner, the latter charges higher rates of fees compared to other local hospitals and that even indigent patients are required to pay; and that it has only five (5) charity beds out of the approved thirty-four (34) beds. (See Answer to Pet. for Rev., p. 23, CTA rec.) Evidently, it is respondents' belief that the charging of fees by petitioner from its patients transforms it into an institution for profit. Petitioner and the City of Basilan entered into a hospitalization and medical contract wherein the rates of hospitalization and medical fees were fixed therein (Exh. G, pp. 46-48, BAA rec.). The purpose of the contract is mutual, i.e., to help petitioner get patients whose expenses are paid for by the City of Basilan and at the same time helping the people of Basilan City to have an easily accessible hospital without need of going to Zamboanga City for medical treatment. It is, therefore, abundantly clear that the contract was for the benefit and advantage of both parties therein. We do not see how this contract could affect materially the status of petitioner as a charitable institution. Also, the fact that petitioner has now only twenty (20) charity beds out of fifty (50) approved beds does not detract from or alter its charitable character.

The effect of the receipt of payments from patients by petitioner and other similarly situated and operated institutions has been summarized as follows:

> The general rule that a charitable institution does not lose its charitable character and its consequent exemption from taxation merely because recipients of its benefits who are able to pay are required to do so, where funds derived in this manner are devoted to the charitable purposes of the institution, applies to hospitals. A hospital owned and conducted by a charitable organization, devoted for the most part to the gratuitous care of charity patients, is exempt from taxation as a building used for "purposes purely charitable," notwithstanding it receives and cares for pay patients, where any profit thus derived is applied to the purposes of the institution. An institution established, maintained, and operated for the purpose of taking care of the sick, without any profit or view to profit, but at a loss, which is made up by benevolent contributions, the benefits of which are open to the public generally, is a purely public charity within the meaning of a statute exempting the property of institutions of purely public charity from taxation; the fact that patients who are able to pay are charged for services rendered, according to their ability, being of no importance upon the question of the character of the institution. (51 American Jurisprudence, p. 607, quoted in Hospital de San Juan de Dios, Inc. vs. Pasay City, 16 SCRA 229.)

In a case involving identical factual issues, the Supreme Court held:

> . . . . It is well settled, in this connection, that the admission of pay-patients does not detract from the charitable character of a hospital, if all its funds are devoted "exclusively to the maintenance of the institution" as a "public charity" (84 C.J.S., 617; see also 51 Am. Jur. 607; Cooley on Taxation, Vol. 2, p.1562; 144 A.L.R., 1489-1492). "In other words, where rendering charity is its primary object, and the funds derived from payments made by patients able to pay are devoted to the benevolent purposes of the institution, the mere fact that a profit has been made will not deprive the hospital of its benevolent character" (Prairie Du Chien, 242 Wis.

262, 7 NW [2d] 832, 144 A.L.R. 1480).

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Within the purview of the Constitutional exemption from taxation, the St. Catherine's Hospital is, therefore, a charitable institution, and the fact that it admits pay-patients does not bar it from claiming that it is devoted exclusively to benevolent purposes, it being admitted that the income derived from pay-patients is devoted to the improvement of the charity wards, which represent almost two-thirds (2/3) of the bed capacity of the hospital aside from "out-charity patients" who come only for consultation. (Herrera vs. The Quezon City Board of Assessment Appeals, 3 SCRA 186; see also Jesus Sacred Heart College vs. Sto. Tomas University, L-6988, May 24, 1952; Coll. of Int. Rev. vs. St. Paul's Hospital of Iloilo, L-12127, May 25, 1959; San Juan de Dios Hospital vs. Metropolitan Water District, 54 Phil. 174; Manila Sanitarium & Hospital vs. Gabuco, L-14331, Jan. 31, 1963; Comm. vs. Bishop of the Missionary District of the Phil. Island, 14 SCRA 991.)

To further show that petitioner is not a charitable institution, respondents presented as evidence the testimony of one Igmin Sutti, who testified that he was denied admission by petitioner allegedly because he cannot pay the amount demanded of him. However, his testimony was rebutted by Dr. Reynaldo de Joya, Director of petitioner, who testified that it is not the policy of the hospital to refuse a patient because he has no money, but what actually happened is that his case was a serious one and he could not be operated in the hospital due to inadequate medical facilities so that he was referred to the Zamboanga General Hospital. (P. 125-126, BAA rec.) Nevertheless, Dr. de Joya testified that such kind of patient and others similarly situated were given medical first aid by petitioner before being transferred to other better equipped hospitals (p. 130, BAA rec.).

Having resolved that petitioner is a charitable institution and, therefore, exempt from real property tax, it becomes unnecessary for us to pass upon the question as to the true and full value of the properties in question.

WHEREFORE, the decision appealed from is hereby reversed. Accordingly, the land and building, covered by Tax Declarations Nos. 8633 and 403, respectively, of Basilan City, are hereby declared exempt from realty tax. Without pronouncement as to costs.

SO ORDERED.

Quezon City, November 29, 1971.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge