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FIRST DIVISION

[G.R. No. L-36049. May 31, 1976]

CITY OF NAGA, VICENTE P. SIBULO, as Mayor, and JOAQUIN C. CLEOPE, as Treasurer of the City of Naga, *petitioners, vs.* **CATALINO AGNA, FELIPE AGNA and SALUD VELASCO,** *respondents.*

SYLLABUS

1. **ADMINISTRATIVE LAW; MUNICIPAL TAX ORDINANCE; CLASSIFICATION AND PURPOSE.** — Section 2309 of the Revised Administrative Code contemplates of two types of municipal ordinances, namely: (1) a municipal ordinance which changes municipal license tax already in existence and (2) an ordinance which creates an entirely new tax. Under the first type, a municipal license tax already in existence shall be subject to change only by an ordinance enacted prior to the 15th day of December of any year after the next succeeding year. This means that the ordinance enacted prior to the 15th day of December changing or repealing a municipal license tax already in existence will have to take effect in the next succeeding year. The evident purpose of the provision is to enable the taxpayers to adjust themselves to the new charge or burden brought about by the new ordinance. This is different from the second type of a municipal ordinance where an entirely new tax may be created by any ordinance enacted during the quarter year to be effective at the beginning of any subsequent quarter.

2. **ID.; ID.; SECTION 2309 OF THE REVISED ADMINISTRATIVE CODE AND SECTION 2 OF REPUBLIC ACT NO. 2264 (LOCAL AUTONOMY ACT), RECONCILED.** — The two provisions can be reconciled by applying the first clause of Section 2309 of the Revised Administrative Code when the problem refers to the effectivity of an ordinance changing or repealing a municipal license tax already in existence. But where the problem refers to effectivity of an ordinance creating an entirely new tax, let Section 2 of the Republic Act No. 2264 govern.

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3. **ID.; ID.; RULE UNDER THE REVISED ADMINISTRATIVE CODE, NOT REPEALED UNDER THE LOCAL AUTONOMY ACT.** — An examination of Republic Act No. 2264 (Local Autonomy Act) fails to show any provision expressly repealing Section 2309 of the Revised Administrative Code. All that is mentioned therein is Section 9. The said provision does not amount to an express repeal of Section 2309 of the Revised Administrative Code. It is a well established principle in statutory construction that a statute will not be construed as repealing prior acts on the same subject in the absence of words to that effect unless there is an irreconcilable repugnancy between them, or unless the new law is evidently intended to supersede all prior acts on the matter in hand and to comprise itself the sole and complete system of legislation on that subject. Every new statute should be construed in connection with those already existing in relation to the same subject matter and all should be made to harmonize and stand together, if they can be done by any fair and reasonable interpretation.

4. **STATUTORY CONSTRUCTION; IN *PARI MATERIA*; CONCEPT THEREOF.** — Section 2309 of the Revised Administrative Code and Section 2 of the Republic Act No. 2264 (Local Autonomy Act) refer to the same subject matter — enactment and effectivity of a tax ordinance. In this respect they can be considered in *pari materia*. Statutes are said to be in *pari materia* when they relate to the same person or thing, or to the same class of persons or things, or have the same purpose or object. When statutes are in *pari materia*, the rule of statutory construction dictates that they should be construed together. This is because all enactments of the same legislature on the same subject matter are supposed to form part of one uniform system; that later statutes are supplementary or complimentary to the earlier enactments and in the passage of its acts the legislature is supposed to have in mind the existing legislation on the same subject and to have enacted its new act with reference thereto.

5. **ID.; STATUTIC; NEW LAW DEEMED ENACTED IN ACCORDANCE WITH LEGISLATIVE POLICY EMBODIED IN PRIOR STATUES.** — Having thus in mind the previous statutes relating to the same subject matter, whenever the legislature enacts a new law, it is deemed to have enacted the new provision in accordance with the legislative

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policy embodied in those prior statutes unless there is an express repeal of the old and they all should be construed together. In construing them the old statutes relating to the same subject matter should be compared with the new provisions and if possible by reasonable construction, both should be so construed that effect may be given to every provision of each. However, when the new provision and the old relating to the same subject cannot be reconciled the former shall prevail as it is the latter expression of the legislative will.

APPEARANCES OF COUNSEL

Ernesto A. Miguel for petitioners.
Bonot, Cledera & Associates for respondents.

D E C I S I O N

MARTIN, *J.*:

Petition for review on *certiorari*, which We treat as special civil action, of the decision of the Court of First Instance of Camarines Sur in Civil Case No. 7084, entitled *Agna, et al. versus City of Naga, et al.*, declaring Ordinance No. 360 of the City of Naga enforceable in 1971 the year following its approval and requiring petitioners to pay to private respondents the amounts sought for in their complaint plus attorney's fees and costs. Included in the present controversy as proper parties are Vicente P. Sibulo and Joaquin C. Cleope, the City Mayor and City Treasurer of the City of Naga, respectively.

On June 15, 1970, the City of Naga enacted Ordinance No. 360 changing and amending the graduated tax on quarterly gross sales of merchants prescribed in Section 3 of Ordinance No. 4 of the City of Naga to percentage tax on gross sales provided for in Section 2 thereof. Pursuant to said ordinance, private respondents paid to the City of Naga the following taxes on their gross sales for the quarter from July 1, 1970 to September 30, 1970, as follows:

Catalino Agna paid ₱1,805.17 as per Official Receipt No. 1826591;

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Felipe Agna paid ₱625.00 as per Official Receipt No. 1826594; and

Salud Velasco paid ₱129.81 as per Official Receipt No. 1820339.

On February 13, 1971, private respondents filed with the City Treasurer of the City of Naga a claim for refund of the following amounts, together with interests thereon from the date of payments: To Catalino Agna, ₱1,555.17; to Felipe Agna, ₱560.00; and to Salud Velasco, ₱127.81, representing the difference between the amounts they paid under Section 3, Ordinance No. 4 of the City of Naga, *i.e.*, ₱250.00; ₱65.00 and ₱12.00 respectively. They alleged that under existing law, Ordinance No. 360, which amended Section 3, Ordinance No. 4 of the City of Naga, did not take effect in 1970, the year it was approved but in the next succeeding year after the year of its approval, or in 1971, and that therefore, the taxes they paid in 1970 on their gross sales for the quarter from July 1, 1970 to September 30, 1970 were illegal and should be refunded to them by the petitioners.

The City Treasurer denied the claim for refund of the amounts in question. So private respondents filed a complaint with the Court of First Instance of Naga (Civil Case No. 7084), seeking to have Ordinance No. 360 declared effective only in the year following the year of its approval, that is, in 1971; to have Sections 4, 6 and 8 of Ordinance No. 360 declared unjust, oppressive and arbitrary, and therefore, null and void; and to require petitioners to refund the sums being claimed with interests thereon from the date the taxes complained of were paid and to pay all legal costs and attorney's fees in the sum of ₱1,000.00. Private respondents further prayed that the petitioners be enjoined from enforcing Ordinance No. 360.

In their answer, the petitioners among other things, claimed that private respondents were not "compelled" but voluntarily made the payments of their taxes under Ordinance No. 360; that the said ordinance was published in accordance with law; that in accordance with Republic Act No. 305 (Charter of the City of Naga) an ordinance takes effect after the tenth day following its passage unless otherwise stated in said ordinance;

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that under existing law the City of Naga is authorized to impose certain conditions to secure and accomplish the collection of sales taxes in the most effective manner. As special and affirmative defenses, the petitioners allege that the private respondents have no cause of action against them; that granting that the collection of taxes can be enjoined, the complaint does not allege facts sufficient to justify the issuance of a writ of preliminary injunction; that the refund prayed for by the private respondents is untenable; that petitioners Vicente P. Sibulo and Joaquin C. Cleope, the City Mayor and Treasurer of the City of Naga, respectively, are not proper parties in interest; that the private respondents are estopped from questioning the validity and/or constitutionality of the provisions of Ordinance No. 360. Petitioners counterclaimed for ₱20,000.00 as exemplary damages, for the alleged unlawful and malicious filing of the claim against them, in such amount as the court may determine.

During the hearing of the petition for the issuance of a writ of preliminary injunction and at the pre-trial conference as well as at the trial on the merits of the case, the parties agreed on the following stipulation of facts: That on June 15, 1970, the City Board of the City of Naga enacted Ordinance No. 360 entitled "An ordinance repealing Ordinance No. 4, as amended, imposing a sales tax on the quarterly sales or receipts on all businesses in the City of Naga," which ordinance was transmitted to the City Mayor for approval or veto on June 25, 1970; that the ordinance was duly posted in the designated places by the Secretary of the Municipal Board; that private respondents voluntarily paid the gross sales tax, pursuant to Ordinance No. 360, but that on February 15, 1971, they filed a claim for refund with the City Treasurer who denied the same.

On October 9, 1971, the respondent Judge rendered judgment holding that Ordinance No. 360, series of 1970 of the City of Naga was enforceable in the year following the date of its approval, that is, in 1971 and required the petitioners to reimburse the following sums, from the date they paid their taxes to the City of Naga: to Catalino Agna, the sum of ₱1,555.17; to Felipe Agna, ₱560.00; and to Salud Velasco, ₱127.81 and the corresponding interests from the filing of the complaint up to

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the reimbursement of the amounts plus the sum of ₱500.00 as attorney's fees and the costs of the proceedings.

Petitioners' submit that Ordinance No. 360, series of 1970 of the City of Naga, took effect in the quarter of the year of its approval, that is in July 1970, invoking Section 14 of Republic Act No. 305,[1] as amended, otherwise known as the Charter of the City of Naga, which, among others, provides that "Each approved ordinance x x x shall take effect and be enforced on and after the 10th day following its passage unless otherwise stated in said ordinance x x x". They contend that Ordinance No. 360 was enacted by the Municipal Board of the City of Naga on June 15, 1970[2] and was transmitted to the City Mayor for his approval or veto on June 25, 1970[3] but it was not acted upon by the City Mayor until August 4, 1970. Ordinarily, pursuant to Section 14 of Republic Act No. 305, said ordinance should have taken effect after the 10th day following its passage on June 15, 1970, or on June 25, 1970. But because the ordinance itself provides that it shall take effect upon its approval, it becomes necessary to determine when Ordinance No. 360 was deemed approved. According to the same Section 14 of Republic Act No. 305, "if within 10 days after receipt of the ordinance the Mayor does not return it with his veto or approval[4] the ordinance

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[1] Section 14, RA 305, as amended, otherwise known as the Charter of Naga City, provides:

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Each approved ordinance, resolution or motion shall be sealed with the seal of the Board, signed by the presiding officer and the secretary of the Board and recorded in a book for the purpose and shall, on the day following its passage, be posted by the secretary at the main entrance to the City Hall, *and shall take effect and be in force on and after the tenth day following its passage, unless otherwise stated in said ordinance, resolution* or motion or vetoed by the Mayor as hereinafter provided." (Italics ours)

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[2] Stipulation of Facts.

[3] Stipulation of Facts.

[4] "Sec. 14 (RA 305) — Method of transacting business by the Board — Veto — Authentication and publication of ordinance.

x x x x x x x x x

x x x Within ten days after the receipt of the ordinance, resolution, or motion, the Mayor shall return it with his approval or veto. *If he does not return it within that time it shall be deemed to be approved, if he returns*

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is deemed approved." Since the ordinance in question was not returned by the City Mayor with his veto or approval within 10 days after he received it on June 25, 1970, the same was deemed approved after the lapse of ten (10) days from June 25, 1970 or on July 6, 1970. On this date, the petitioners claim that Ordinance No. 360 became effective. They further contend that even under Section 2, of Republic Act No. 2264 (Local Autonomy Act)[5] which expressly provides: "A tax ordinance shall go into effect on the fifteenth day after its passage unless the ordinance shall provide otherwise," Ordinance No. 360 could have taken effect on June 30, 1970, which is the fifteenth day after its passage by the Municipal Board of the City of Naga on June 15, 1970, or as earlier explained, it could have taken effect on July 6, 1970, the date the ordinance was deemed approved because the ordinance itself provides that it shall take effect upon its approval. Of the two provisions invoked by petitioners to support their stand that the ordinance in question took effect in the year of its approval, it is Section 2 of Republic Act No. 2264 (Local Autonomy Act) that is more relevant because it is the provision that specifically refers to effectivity of a *tax*

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it with his veto, his reasons therefor in writing shall accompany it. It may then be again enacted by the affirmative vetoes of six members of the Board and again forwarded to the Mayor for his approval, and if within ten days after his receipt he does not again return it with his veto, it shall be deemed to be approved. If within said time he again returns it with his veto, it shall be forwarded forthwith to the Secretary of the Interior for his approval or disapproval, which shall be final." (Italics supplied.)

[5] Sec 2, Republic Act 2264, otherwise known as the Local Autonomy Act, provides:

Section 2. (Republic Act No. 2264) Taxation. —*Any provision of law to the contrary notwithstanding all chartered cities,* municipalities and municipal districts shall have authority to impose municipal license taxes or fees upon persons engaged in any occupation or business x x x

x x x x x x x x x

A tax ordinance shall go into effect on the fifteenth day after its passage, unless the ordinance shall provide otherwise: Provided, however, that the Secretary of Finance shall have authority to suspend the effectivity of any ordinance within one hundred and twenty days after its passage, if, in his opinion the tax or fees therein levied, or imposed is unjust, excessive, oppressive, or confiscatory, and when the said secretary exercises this authority the effectivity or such ordinance shall be suspended. (italics supplied)

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ordinance and being a provision of much later law it is deemed to have superseded Section 14 of Republic Act No. 305 (Charter of the City of Naga) in so far as effectivity of a tax ordinance is concerned.

On the other hand, private respondents contend that Ordinance No. 360 became effective and enforceable in 1971, the year following the year of its approval, invoking Section 2309 of the Revised Administrative Code which provides:

"Section 2309. *Imposition of tax and duration of license.* — A municipal license tax already in existence shall be subject to change only by ordinance enacted prior to the 15th day of December of any year after the next succeeding year, but an entirely new tax may be created by any ordinance enacted during the quarter year effective at the beginning of any subsequent quarter."

They submit that since Ordinance No. 360, series of 1970 of the City of Naga, is one which changes the existing graduated sales tax on gross sales or receipts of dealers of merchandise and *sari-sari* merchants provided for in Ordinance No. 4 of the City of Naga to a percentage tax on their gross sales prescribed in the questioned ordinance, the same should take effect in the next succeeding year after the year of its approval or in 1971.

Evidently, the divergence of opinion as to when Ordinance No. 360 took effect and became enforceable is mainly due to the seemingly apparent conflict between Section 2309 of the Revised Administrative Code and Section 2 of Republic Act No. 2264 (Local Autonomy Act). Is there really such a conflict in the above-mentioned provisions? It will be easily noted that Section 2309 of the Revised Administrative Code contemplates of two types of municipal ordinances, namely: (1) a municipal ordinance which changes a municipal license tax already in existence and (2) an ordinance which creates an entirely new tax. Under the first type, a municipal license tax already in existence shall be subject to change only by an ordinance enacted prior to the 15th day of December of any year after the next succeeding year. This means that the ordinance enacted prior to the 15th day of December changing or repealing a municipal license tax already in existence will have to take effect in next succeeding

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year. The evident purpose of the provision is to enable the taxpayers to adjust themselves to the new charge or burden brought about by the new ordinance. This is different from the second type of a municipal ordinance where an entirely new tax may be created by any ordinance enacted during the quarter year to be effective at the beginning of any subsequent quarter. We do not find any such distinction between an ordinance which changes a municipal license tax already in existence and an ordinance creating an entirely new tax in Section 2 of Republic Act No. 2264 (Local Autonomy Act) which merely refers to a "tax ordinance" without any qualification whatsoever.

Now to the meat of the problem in this petition. Is not Section 2309 of the Revised Administrative Code deemed repealed or abrogated by Section 2 of Republic Act No. 2264 (Local Autonomy Act) in so far as effectivity of a tax ordinance is concerned? An examination of Rèpublic Act No. 2264 (Local Autonomy Act) fails to show any provision expressly repealing Section 2309 of the Revised Administrative Code. All that is mentioned therein is Section 9 which reads:

"Section 9. All acts, executive orders, administrative orders, proclamations or parts thereof, inconsistent with any of the provisions of this Act are hereby repealed and modified accordingly."

The foregoing provision does not amount to an express repeal of Section 2309 of the Revised Administrative Code. It is a well established principle in statutory construction that a statute will not be construed as repealing prior acts on the same subject in the absence of words to that effect unless there is irreconcilable repugnancy between them, or unless the new law is evidently intended to supersede all prior acts on the matter in hand and to comprise itself the sole and complete system legislation on that subject. Every new statute should be construed in connection with those already existing in relation to the same subject matter and all should be made to harmonize and stand together, if they can be done by any fair and reasonable interpretation x x x[6] It will also be noted that Section 2309 of the Revised Administrative

[6] Black on *Interpretation of Laws*, p. 351.

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Code and Section 2 of Republic Act No. 2264 (Local Autonomy Act) refer to the same subject matter — enactment and effectivity of a tax ordinance. In this respect they can be considered in *pari materia*. Statutes are said to be in *pari materia* when they relate to the same person or thing, or to the same class of persons or things, or have the same purpose or object.[7] When statutes are in *pari materia*, the rule of statutory construction dictates that they should be construed together. This is because enactments of the same legislature on the same subject matter are supposed to form part of one uniform system; that later statutes are supplementary or complimentary to the earlier enactments and in the passage of its acts the legislature is supposed to have in mind the existing legislation on the same subject and to have enacted its new act with reference thereto.[8] Having thus in mind the previous statutes relating to the same subject matter, whenever the legislature enacts a new law, it is deemed to have enacted the new provision in accordance with the legislative policy embodied in those prior statutes unless there is an express repeal of the old and they all should be construed together.[9] In construing them the old statutes relating to the same subject matter should be compared with the new provisions and if possible by reasonable construction, both should be so construed that effect may be given to every provision of each. However, when the new provision and the old relating to the same subject cannot be reconciled the former shall prevail as it is the latter expression of the legislative will.[10] Actually we do not see any conflict between Section 2309 of the Revised Administrative Code and Section 2 of the Republic Act No. 2264 (Local Autonomy Act). The conflict, if any, is more apparent than real. It is one that is not incapable of reconciliation. And the two provisions can be reconciled by applying the first clause of Section 2309 of the Revised Administrative Code when the problem refers to the effectivity of an ordinance changing or repealing a municipal

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[7] Sutherland *Statutory Construction*, Vol. II, pp. 535-536.

[8] Black on *Interpretation of Laws*, Sec. 106.

[9] *Ibid.*

[10] Sutherland *Statutory Construction*, Vol. II, p. 529.

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license tax already in existence. But where the problem refers to effectivity of an ordinance creating an entirely new tax, let Section 2 of Republic Act No. 2264 (Local Autonomy Act) govern.

In the case before Us, the ordinance in question is one which changes the graduated sales tax on gross sales or receipts of dealers of merchandise and *sari-sari* merchants prescribed in Section 3 of Ordinance No. 4 of the City of Naga to percentage tax on their gross sales — an ordinance which definitely falls within the clause of Section 2309 of the Revised Administrative Code. Accordingly it should be effective and enforceable in the next succeeding year after the year of its approval or in 1971 and private respondents should be refunded of the taxes they have paid to the petitioners on their gross sales for the quarter from July 1, 1970 to September 30, 1970 plus the corresponding interests from the filing of the complaint until reimbursement of the amount.

IN VIEW OF THE FOREGOING, the instant petition is hereby dismissed.

SO ORDERED.

Teehankee (Chairman), Makasiar, Esguerra and *Muñoz Palma, JJ.*, concur.