Supreme Court E-Library

trial Court at the promulgation of sentence its wish to be relieved of its responsibility for the custody of the accused. Under the above-quoted Rule, petitioner could very well have asked the trial court to relieve it as the jailer and custodian of the accused by surrendering the person of the accused to the said court and asking for the cancellation of its bail bond.

5. Finally, it should be noted that petitioner filed a motion for reconsideration of the trial Court's order of March 3, 1967 for execution of the judgment against the bond only on May 11, 1967 or more than 60 days from its receipt on March 9, 1967 of said order, which motion for reconsideration was in due course denied by the trial court. Petitioner having failed to file a timely appeal from the Court's order could no longer avail of the remedy of the special civil action for certiorari in lieu of its lost right of appeal, since no errors of jurisdiction were committed by the trial court.[6]

ACCORDINGLY, the appealed judgment of the Court of Appeals is affirmed and the petition is dismissed. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Barredo and *Villamor, JJ.*, concur.

Decision affirmed.

[G.R. No. L-24942. March 30, 1970]

COTABATO LIGHT & POWER COMPANY, INCORPORATED, petitioner-appellee, *vs.* THE CITY OF COTABATO, THE HONORABLE MAYOR OF COTABATO CITY, THE HONORABLE BOARD MEMBERS OF COTABATO CITY and AUGUSTO PACIS, as City Treasurer, respondents-appellants.

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[6] Fernando *vs.* Vasquez, L-26417, Jan. 30, 1967.

Supreme Court E-Library

SYLLABUS

1. POLITICAL LAW; LOCAL AUTONOMY ACT; POWER OF MUNICIPAL CORPORATION TO IMPOSE TAXES; FRANCHISE TAX; BUSINESS OF ELECTRIC LIGHT, HEAT AND POWER, NOT NECESSARILY SUBJECT TO FRANCHISE TAX.— There is no constitutional or statutory provision to warrant appellants' contention that in the business of electric light, heat and power it is inevitably subject to the payment of franchise tax. It is perfectly possible for the legislature or municipality to grant franchise without the requirement to pay any franchise tax.

2. ID.; ID.; ID.; ID.; ID.; EXEMPTION OF FRANCHISE HOLDERS, EXPLAINED.— The exemption of franchise holders from any possible municipal tax under Section 2(j) of the Local Autonomy Act is not necessarily repugnant to the power given to municipalities to tax the business of light, heat and power, under Section 2(d) of said law, assuming that the reference therein to such business constitutes an exception to exception.

3. ID.; ID.; ID.; ID.; ID.; INSTANT CASE.— The clause "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" found in Section 2 of Republic Act 2264, did not alter, amend, nor repeal the terms and conditions of the appellee Cotabato Light & Power Company's franchise under which it was required to pay 2% of its gross earnings "in lieu of any and all taxes of any kind, nature or description levied, established, or collected by any authority whatsoever, municipal, provincial or insular, now or in the future, ... on its franchise, rights, privileges, receipts, revenues and profits, from which taxes the grantee is hereby expressly exempted." Consequently said terms and conditions exempt the Cotabato Light & Power Company from the operation of Ordinance No. 7, enacted by the City of Cotabato pursuant to the provisions of Section 2 of Republic Act 2264.

4. ID.; ID.; ID.; ID.; ID.; ID.; EXPRESS PROVISION IN EXTENDED FRANCHISE.— The soundness of our conclusion that appellee corporation is exempt from subject tax is strengthened by the fact that even after the Local Autonomy Act of 1959 was already in force, when Congress extended appellee's franchise for another twenty-five years under Republic Act No. 3217 on June 17, 1961, the said franchise was again expressly made "subject to the terms and conditions established in Act No. 3636, as amended by C.A. No. 132" which

Supreme Court E-Library

conclusively shows that the exemption of appellee from the imposition of taxes other than its franchise tax was not repealed, altered or modified by the provision of the local Autonomy Act relied upon by appellants. In any event, another way of looking at the matter is that such exemption was revived, if at all it had been repealed.

5. ID.; GRANT OF FRANCHISE; AMENDMENT OF FRANCHISE; REQUIREMENTS.— The legislature is not without prerogative to alter or modify the terms of any previously granted franchise, but the revision must, in the first place, conform with the express reservations made in the grant and, moreover, the intent to amend must be evident, if not specific.

6. ID.; LOCAL AUTONOMY ACT; POWER OF MUNICIPAL CORPORATION TO IMPOSE TAXES; MUNICIPAL ORDINANCE TO RAISE REVENUE CONSIDERED TAX.— Where it is apparent from the terms of the ordinance that its purpose is to raise revenue, for the City Light Fund, such ordinance could be considered as for taxation purposes.

APPEARANCES OF COUNSEL

Eulalio B. Garcia Law Offices for petitioner-appellee.
Fiscal Antonio V. Repollo for respondents-appellants.

DECISION

BARREDO, *J.*:

Appeal by the City of Cotabato, et al., from the decision of the Court of First Instance of Cotabato in its Civil Case No. 1971 (for declaratory relief), wherein the court *a quo* declared null and void and *ultra vires* the said city's Ordinance No. 7 - imposing a tax (denominated as a license fee in the Ordinance) on any person, company, partnership or corporation engaged in "the operation or manufacture or sale of electric light or electric heat or electric power" within the limits of Cotabato City - and enjoined the city officials concerned from enforcing the Ordinance in question.

The background facts are not disputed. Under Commonwealth Act No. 487, dated June 18, 1939, the Cotabato Light & Power Company, Inc. was granted a legislative franchise to construct, maintain and operate a plant for the purpose of generating and

Supreme Court E-Library

distributing electric light, heat and power for sale within the limits of the municipality (now city) of Cotabato for a period of twenty-five (25) years. The said grant provided, among others, as follows:

"Section 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to the Cotabato Light and Power Company, Incorporated, for a period of twenty-five years from the approval of this Act, the right, privilege and authority to construct, maintain and operate an electric light, heat, and power plant for the purpose of generating and distributing electric light, heat, or power for sale within the limits of the municipality of Cotabato, Province of Cotabato.

"Section 2. It is expressly provided that in the event the Government should desire to maintain and operate for itself the plant and the enterprise herein authorized, the grantee shall surrender its franchise and will turn over to the Government all serviceable equipments therein, at cost.

"Section 3. The municipal franchise under which the grantee is now operating an electric light, heat, and power plant in Cotabato, Cotabato, is declared null and void."

The provisions of Act 3636 (as amended by Commonwealth Act No. 132) referred to above, so far as pertinent to the present case, read:

"SEC. 10. The grantee shall pay the same taxes as are now or may hereafter be required by law from other individuals, co-partnerships, private, public or quasi-public associations, corporations, or joint- stock companies, on his (its) real estate, buildings, plants, machinery, and other personal property, except property declared exempt in this section. In consideration of the franchise and rights hereby granted, the grantee shall pay into the municipal treasury of the (of each) municipality in which it is supplying electric current to the public under this franchise, a tax equal to two per centum of the *gross earnings* from electric current sold or supplied under this franchise in said (each said) municipality. Said tax shall be due and payable quarterly and shall be in lieu of any and all taxes of any kind, nature or description levied, established, or collected by any authority whatsoever, municipal, provincial, or insular, now or in the future, on its poles, wires, insulators, switches, transformers and structures, installations, conductors, and accessories, placed in and over and under all public property, including public streets and highways, provincial roads, bridges and public squares,

Supreme Court E-Library

and on its franchise, rights, privileges, receipts, revenues and profits, from which taxes the grantee is hereby expressly exempted."

On June 19, 1959, Congress enacted Republic Act No. 2264, otherwise known as the Local Autonomy Act, under whose provisions chartered cities, municipalities and municipal districts were granted broader powers to levy taxes and fees in their respective jurisdictions. Section 2 of this law provides:

"SEC. 2. 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, or exercising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, the municipal council of the municipality, or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: *Provided*, That municipalities and municipal districts shall in no case, impose any percentage tax on sales or other taxes in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the national internal revenue code: ***Provided, however***, That no city, municipality or municipal district may levy or impose any of the following:

. . . . . .

(d) Taxes on persons operating waterworks, irrigation and other public utilities except electric light, heat and power;

. . . . . .

(j) Taxes of any kind on banks, insurance companies, and persons paying franchise tax; and

. . . . . ."

Pursuant to the power and authority granted under Section 2(d) abovequoted, the Municipal Board of Cotabato City, on October 3, 1962, enacted the said city's Ordinance No. 7 now called to question. Quoted hereunder are its provisions:

Supreme Court E-Library

"ORDINANCE NO. 7

"AN ORDINANCE IMPOSING LICENSE FEES ON THE BUSINESS OF SELLING ELECTRIC LIGHT, HEAT AND POWER, PURSUANT TO THE PROVISIONS OF SECTION 2(d) OF REPUBLIC ACT NO. 2264.

"By authority of Section 15, Republic Act 2364, otherwise known as the Charter of the City of Cotabato, be it ordained by the Municipal Board in regular session assembled that:

"TITLE I - Municipal License Fees for Selling Electric Light, Heat and Power.

"Section 1. - *Permit and License* :

"It shall be unlawful for any person, company, partnership, or corporation to conduct or engage in the operation or manufacture or sale of electric light or electric heat or electric power either generated by machine or water power without first securing a permit therefor from the City Mayor and paying the necessary license fees to the City Treasurer, Provided, that application for permit shall be first approved by both, the City Electrician or his authorized representative, and the City Engineer or his authorized representative.

"Section 2. - *Fees* .

"For the business mentioned under Section 1, hereof, a license fee, shall be paid monthly for electric light or electric heat or electric power whether sold to the public or to any company, partnership or corporation or individual with a franchise to sell same to the public, computed as follows:

"(a) For every kilowatt sold at the rate of from ₱0.18 to ₱0.27, there shall be collected (one centavo) ..... ₱0.01

"(b) For every kilowatt sold at the rate less than ₱0.18 (one-half centavo) ..... ₱0.005

"(c) For every kilowatt sold at the rate more than ₱0.27 (two centavos) ..... ₱0.02

"Section 3. - *Time for Payment* .

"The license fees prescribed under Section 2, hereof, shall be paid to the City Treasurer quarterly, and a surcharge of twenty (20%) per cent on the fees due shall be imposed for late payment.

"Section 4. - *Mode of Determining the Tax Due* .

"In order to determine the amount of fees or tax due provided herein, the proprietor or manager or president of the company or partnership or

Supreme Court E-Library

corporation shall submit to the City Treasurer a sworn statement at the end of every quarter stating the number of kilowatts sold at various rates during the said period.

"Section 5. - *Penal Provision* .

"Any person who is found violating any provision of this Ordinance shall upon conviction thereof, be punished with a fine of not less than ₱50.00 but not more than ₱200.00 or an imprisonment of not less than ten (10) days nor more than one (1) month, and for each succeeding offense double the penalty. In the case of a company, partnership or corporation violating any provision of this Ordinance, it shall be the manager or president or members of the board of directors who shall be held liable therefor.

"Section 6. - Proceeds from this Ordinance shall form the 'City Light Fund' and shall be exclusively used for lighting public streets, plazas, alleys, and other public places and public buildings.

"Section 7. - *Effectivity* .

"This Ordinance shall take effect upon its approval."

The Cotabato Light & Power Company, Inc., being engaged in the operation and sale of electric power, heat and light in Cotabato City under its franchise,[1] was advised by the treasurer of the city of the enactment of Ordinance No. 7 and, at the same time, requested to cooperate in the implementation thereof. The company hedged; in its letter dated February 6, 1963, it called the attention of the City Treasurer to the term "kilowatt" used in the ordinance, and informed the said official that the ordinance did not pertain to it because the Cotabato Light and Power Company sells electricity not by the "kilowatts" but by the

[1] The company's franchise granted under Commonwealth Act No. 487 was extended on its expiry date under Republic Act No. 3217, dated June 17, 1961, which reads:

"SEC. 1. Subject to the terms and conditions established in Act Numbered Thirty-Six Hundred Thirty-Six, as amended by Commonwealth Act Numbered One Hundred Thirty-Two, and to the provisions of the Constitution, the franchise granted by Commonwealth Act Numbered Four Hundred Eighty-Seven to the Cotabato Light and Power Company, Incorporated, to construct, maintain and operate an electric light, heat and power plant for the purpose of generating and disributing electric light, heat and power for sale within the limits of the City of Cotabato, province of Cotabato, is hereby extended for a period of twenty-five years from the date of its expiration."

Supreme Court E-Library

"kilowatt-hours." Even after the treasurer of the city had subsequently advised it that the "kilowatt" referred to in the ordinance was intended to mean "kilowatt-hour" as reflected in Resolution No. 61, Series of 1963 of the Municipal Board of Cotabato City, however, the Cotabato Light & Power Company refused to pay and made it plain in its letter of September 1, 1964 that it could not comply with the ordinance because it believed the same to be *ultra vires* . It then filed the present action for declaratory relief before the court *a quo* in view of the insistence of the officials of Cotabato City concerned to enforce the questioned ordinance against it; and, as stated in the opening paragraph of this opinion, the trial court rendered judgment in its favor and against the City of Cotabato and its officials, with the following dispositive portions:

"In view of all the facts and the law aforecited, it seems clear that Ordinance No. 7, series of 1962, of the defendant Cotabato City, is a tax ordinance, not a license fee; that the defendant Cotabato City cannot enact Ordinance No. 7 imposing a tax upon the plaintiff under Section 2(d) of the Local Autonomy Act because said tax is expressly prohibited under Section 2(j) of the Local Autonomy Act with respect to the plaintiff which is paying a franchise tax to the government; that independent of Section 2(j) of the Local Autonomy Act, the Plaintiff is legally exempted from paying the tax imposed by Ordinance No. 7 by virtue of the express exemption in Section 10 of Act No. 3636, as amended which is expressly incorporated in Republic Act No. 3217; that if the levy in Ordinance No. 7 is considered as a license fee, the same would be null and void for being clearly excessive, and therefore, unjust, pursuant to Section 2 of the Local Autonomy Law.

"WHEREFORE, the Court hereby renders judgment in favor of the plaintiff against the defendants:

"(a) Declaring Ordinance No. 7 a tax measure, intended to raise revenue rather than merely a license for regulation purposes;

"(b) Declaring said Ordinance No. 7, being a tax measure, as null and void and ultra vires, by virtue of Section 10 of Act No. 3636, as amended, expressly incorporated in Republic Act No. 3217, the legislative franchise of the plaintiff;

"(c) Declaring said Ordinance No. 7, if considered as a police regulation measure, null and void, for imposing a clearly excessive, hence unjust, license fees, contrary to Section 2 of the Local Autonomy Act.

Supreme Court E-Library

"(d) Enjoining the defendants from enforcing Ordinance No. 7 against the plaintiff.

"Without pronouncement as to costs."

From this decision of the lower court, the City of Cotabato, et al. has taken the present appeal, claiming that:

"I. THE LOWER COURT ERRED IN HOLDING THAT PLAINTIFF-APPELLEE'S CLAIM OF EXEMPTION FROM PAYMENT OF TAXES OTHER THAN FRANCHISE TAX IS EXPRESSLY AUTHORIZED BY SECTION 2 (j) OF REPUBLIC ACT NO. 2264.

"II. THE LOWER COURT ERRED IN HOLDING THAT PLAINTIFF-APPELLEE IS EXEMPTED FROM PAYMENT OF THE TAX IMPOSED BY ORDINANCE NO. 7 OF THE CITY OF COTABATO BY VIRTUE OF SECTION 10 OF ACT NO. 3636, AS AMENDED.

"III. THE LOWER COURT ERRED IN DECLARING ORDINANCE NO. 7 OF THE CITY OF COTABATO NULL AND VOID AND ULTRA VIRES, AND IN ENJOINING DEFENDANTS-APPELLANTS FROM ENFORCING THE SAID ORDINANCE."

As correctly put by appellants, the real issues are (1) whether or not Ordinance No. 7 of the City of Cotabato, earlier quoted, is valid; and (2) if so, whether or not the said ordinance can legally be enforced against the Cotabato Light & Power Company, Incorporated.

It is pointed out by appellants that the City of Cotabato is legally possessed of the necessary power and authority to enact the ordinance under consideration. Reliance is placed upon the provisions of Section 2(d) of the Local Autonomy Act We have previously quoted, providing that ". . . all chartered cities . . . shall have authority to impose municipal license taxes or fees upon persons engaged in any occupation or business, or exercising privileges in chartered cities . . . by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, . . . and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: . . . Provided, however, that no city . . . may levy or impose . . . taxes on persons operating waterworks, irrigation and other public utilities except electric light, heat and power." Upon these, they argue that there should

Supreme Court E-Library

be no doubt about the power of the City of Cotabato to levy taxes on persons engaged in the business of electric light, heat and power; and since appellee Cotabato Light & Power Company is engaged in such business within Cotabato City, it has no reason to complain against Ordinance No. 7. Appellee, on the other hand, contends that while the provisions of Section 2(d) of the Local Autonomy Act relied upon by appellants so provide, Section 2(j) of the same law ordains that ". . . no city . . . may levy or impose . . . . taxes of any kind on banks, insurance companies, and persons paying franchise tax"; and since it is already continuously and regularly paying the 2% franchise tax provided for in the law which granted its franchise, it maintains that appellant City of Cotabato is devoid of any authority to levy upon it the tax imposed by its Ordinance No. 7. The force of both arguments demands that We take a second look at the legal provisions invoked by them, if only to get a clearer view of the controversy. For emphasis, We again quote the pertinent portions of the Local Autonomy Act involved:

"SEC. 2. 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, or exercising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, the municipal council of the municipality, or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: *Provided* , That municipalities and municipal districts shall in no case, impose any percentage tax on sales or other taxes in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the national internal revenue code: *Provided, however,* That no city, municipality or municipal district may levy or impose any of the following:

. . . . . .

Supreme Court E-Library

"(d) Taxes on persons operating waterworks, irrigation and other public utilities *except electric light, heat and power* ;

. . . . . .

"(j) Taxes of any kind on banks, insurance companies, and *persons paying franchise tax* ; and

. . . . . ."

(Italics Ours)

Appellants plead that these provisions should be taken to mean that all persons already paying franchise taxes are exempt from local taxation, except when they are engaged in the business of electric light, heat and power. Thus, they argue in their brief:[2]

"It is difficult to understand how paragraph (d), with specific reference to electric light, heat and power, which to all intent and purposes is an exception to an exception, can be viewed as a general provision, and corollarily, how paragraph (j) can be considered as a special provision. There would be more sense and logic, we submit, in treating paragraph (j) as a general provision insofar as persons paying franchise tax are concerned, and paragraph (d), with respect to operators of electric light, heat and power, as a special provision. Thus considering these two paragraphs, the portions thereof which are pertinent to the present case would be understood to mean - as the legislature intended them to mean - as follows: No city, municipality or municipal district may levy or impose taxes on persons paying franchise tax except where such persons are operators of electric light, heat and power. This construction would, we believe, give full effect and meaning to the clear intention of Congress to isolate the business of electric light, heat and power from other public utilities on which taxes may not be imposed by cities, municipalities and municipal districts.

"The phrase 'persons paying franchise tax' in paragraph (j) can only refer to persons or corporations, other than those engaged in electric light, heat and power, paying franchise tax, like operators of ice plants, radio broadcasting stations and television stations. The specific mention of 'electric light, heat and power' in paragraph (d) would become idle if not meaningless if persons engaged in that business and paying franchise tax would be deemed exempt from the taxing power of local governments. In enacting Section 2 of Republic Act No. 2264, Congress must be presumed to be cognizant of the fact that the business of electric light, heat and power is operated

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[2] Pp. 7-9, Brief for Appellants.

Supreme Court E-Library

under a legislative or municipal franchise, and, therefore, inevitably subject to the payment of franchise tax. If, this notwithstanding, persons operating this kind of business would be held as included in the term 'persons paying franchise tax' in paragraph (j), then the phrase 'except electric light, heat and power' in paragraph (d) would be absolutely inoperative."

The above argument of appellants suffers from a significant flaw in its premise that the business of electric light, heat and power is inevitably subject to the payment of franchise tax. There is no warrant for such contention in any extant constitutional or statutory provision. In other words, it is perfectly possible for the legislature or a municipality to grant a franchise without the requirement to pay any franchise tax. Thus, the exemption of franchise holders from any possible municipal tax under Section 2(j) of the Local Autonomy Act is not necessarily repugnant to the power given to municipalities to tax the business of light, heat and power, under Section 2(d) of said law, assuming that the reference therein to such business constitutes an exception to the exception. Such business may be taxed so long as it does not pay a franchise tax, but not in addition to or differently from the latter. Even the broadest view of the power of taxation granted municipal corporations under the Local Autonomy Act cannot justify appellants' position in the absence of clearer indication of such intent in its provisions. Withal, the issue raised by appellants regarding the alleged repeal of the terms and conditions of appellee's franchise by Republic Act 2264 is not really new. Well reasoned precedents,[3] practically on all fours with the present case, dispose of it entirely.

In the case of Manila Railroad Co. *vs.* Rafferty, *supra* , the Collector of Internal Revenue, in pursuance of the provisions of Act No. 2432 and subsequent Acts amendatory thereof and supplementary thereto, assessed against the Manila Railroad Company a tax on coal and oil imported into the Philippines by the said company for its use, which tax, the Manila Railroad paid

[3] See Manila Railroad Company *vs.* Rafferty, 40 Phil., 224 (1919). See, also, Philippine Railway Co. *vs.* Collector of Int. Revenue (1952), 91 Phil. 35; Visayan Electric Co., S.A. *vs.* David (1953), 92 Phil. 969.

Supreme Court E-Library

under protest on the ground that it was not bound to pay it by reason of its charter or franchise (Act No. 1510) which required it to pay a certain percentage tax on its earnings with the proviso that "such payments, when promptly and fully made, by the grantee, shall be in lieu of all taxes of every name and nature - municipal, provincial, or central - upon its capital, stock, franchise, right of way, earnings, etc." The problem thus presented was whether or not said Acts had altered, repealed or amended the company's charter. This Court held:

". . . [T]he question presented above may be stated more concretely: May a special law or charter be amended, altered or repealed by a general law, by implication?

"That question has been answered in the negative so many times that, except for the fact that it has not been raised here before, it would scarcely be necessary to cite authorities.

"Repeals of laws by implication are not favored; and the mere repugnance between two statutes should be very clear in order to warrant the court in holding that the later in time repeals the other, when it does not in terms purport to do so. (Cooley's Constitutional Limitations [6th Ed.], p. 182, and cases cited; Sutherland Stat. Construction, Vol. 1, p. 465 [2nd Ed.]; Kinney *vs.* Mallory, 3 Ala., 626; Banks *vs.* Yolo County, 104 Cal., 258; People *vs.* Pacific Import Co., 130 Cal., 442; Reese *vs.* Western Union etc. Co., 123 Ind., 294; 7 L.R.A., 583; Cope *vs.* Cope, 137 U.S., 682.)

"In the case of McKenna *vs.* Edmundstone (91 N.Y., 231) the court said: 'It is well settled that a local and special statute, providing for a particular case or class of cases, is not repealed by a subsequent statute, *general in its terms, provisions and application* , unless the intent to repeal or alter is manifest, although the terms of the general act are broad enough to include the cases embraced in the special law.' That rule is but the application of the larger rule that a statute is not to be deemed repealed, by implication, by a subsequent Act upon the same subject unless the two are manifestly inconsistent with, and repugnant to, each other, or unless a clear intention is disclosed on the face of the later statute to repeal the former one.

"It is a canon of statutory construction that a later *statute, general in its terms* and not expressly repealing a *prior special* statute, will ordinarily not affect the special provisions of such earlier statute. (Steamboat Company *vs.* Collector, 18 Wall. [U.S.], 478; Cass County *vs.* Gillet, 100 U.S. 585; Minnesota *vs.* Hitchcock, 185 U.S., 373, 396.)

Supreme Court E-Library

"Where there are two statutes, the earlier special and the later general - the terms of the general broad enough to include the matter provided for in the special - the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case. (State *vs.* Stoll, 17 Wall. [U.S.], 425.)

"Said Act No. 1510 is a charter granted to the plaintiff company by the Government of the Philippine Islands. It is in the nature of a private contract. It is not a law constituting a part of the machinery of the general government. It was adopted after careful consideration of the private rights of the plaintiff in relation with the resultant benefits to the State. It stands upon a different footing from the general law. When a charter is granted, it constitutes a certain property right. Charters or special laws, such as Act No. 1510, stand upon a different footing from general laws. Once granted, a charter becomes a private contract and cannot be altered nor amended except by consent of all concerned, unless that right is expressly reserved. (Darmouth College *vs.* Woodword, 4 Wheat., 578.) The reason for the rule is clear. The Legislature, in passing a special charter, have their attention directed to the special facts and circumstances which the Act or charter is intended to meet. The Legislature consider and make provision for all the circumstances of the particular case. The Legislature having specially considered all of the facts and circumstances in the particular case in granting a special charter, it will not be considered that the Legislature, by adopting a general law containing provisions repugnant to the provisions of the charter, and without making any mention of its intention to amend or modify the charter, intended to amend, repeal or modify the special act. (Lewis *vs.* Cook County, 74 Ill. App., 151; Philippine Railway Co. vs. Nolting, 34 Phil. 401.)

"While the Acts of Congress referred to above contain a provision that all laws inconsistent with their provisions are repealed, yet they expressly provide that they shall not affect any accrued right. The plaintiff had enjoyed the rights granted under Act No. 1510 for a number of years. Such rights were accrued rights. An examination of said Acts of Congress not only fails to disclose any express intention to amend, alter, or repeal Act No. 1510, or any of its provisions, but, upon the contrary, we find that the said Acts of Congress expressly protect all rights theretofore accrued."

There being obvious parity in the facts and legal provisions involved in the above case and the present one, We hold that the clause "any provision of law to the contrary notwithstanding, all chartered cities, municipalities and municipal districts shall

Supreme Court E-Library

have authority to impose municipal license taxes or fees" found in Section 2 of Republic Act 2264, did not alter, amend, nor repeal the terms and conditions of the appellee Cotabato Light & Power Company's franchise under which it was required to pay 2% of its gross earnings "in lieu of any and all taxes of any kind, nature or description levied, established, or collected by any authority whatsoever, municipal, provincial, or insular, now or in the future, ... on its franchise, rights, privileges, receipts, revenues and profits, from which taxes the grantee is hereby expressly exempted." Consequently, said terms and conditions exempt the Cotabato Light & Power Company from the operation of Ordinance No. 7, enacted by the City of Cotabato pursuant to the provisions of Section 2 of Republic Act 2264. Indeed, the soundness of our conclusion on this point is strengthened by the fact that even after the Local Autonomy Act of 1959 was already in force, when Congress extended appellee's franchise for another twenty-five years under Republic Act No. 3217 on June 17, 1961, the said franchise was again expressly made "subject to the terms and conditions established in Act No. 3636, as amended by C.A. No. 132" which conclusively shows that the exemption of appellee from the imposition of taxes other than its franchise tax was not repealed, altered, or modified by the provision of the Local Autonomy Act relied upon by appellants. In any event, another way of looking at the matter is that such exemption was revived, if at all it had been repealed.

This is not to say that the legislature is without any prerogative to alter or modify the terms of any previously granted franchise, but the revision must, in the first place, conform with the express reservations made in the grant and, moreover, the intent to amend must be evident, if not specific.

On the other hand, there is no need to declare the ordinance in question null and void and *ultra vires* by reason of the exemption established in Act 3636 referred to in the above-named company's franchise. Neither is this the occasion to pass on the question of whether the said ordinance is a police regulation measure or a pure tax, although it is apparent from the terms

Supreme Court E-Library

of the ordinance that its purpose is to raise revenue for the City Light Fund, and as such could be considered as a tax.[4]

FOR ALL THE FOREGOING, the decision appealed from is modified in the sense that the portions thereof declaring Ordinance No. 7 null and void and *ultra vires* are eliminated. Thus modified, the same is affirmed in all other respects, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehankee and *Villamor, JJ.,* concur.

Fernando, J., in the result.

Decision affirmed with modification.

[G.R. No. L-25024. March 30, 1970]

TEODORO C. SANTIAGO, JR., Minor, Represented by his Mother, Mrs. Angelita C. Santiago, petitioner-appellant, *vs.* Miss JUANITA BAUTISTA, ROSALINDA ALPAS, REBECCA MATUGAS, MILKITA INAMAC, ROMEO AGUSTIN, AIDA CAMINO, LUNA SARMAGO, AURORA LORENA, SOLEDAD FRANCISCO and Mr. FLOR MARCELO, respondents-appellees.

SYLLABUS

1. POLITICAL LAW; JUDICIAL OR QUASI-JUDICIAL BODIES; REQUIREMENT.— Before a tribunal, board, or officer may exercise judicial or quasi-judicial acts, it is necessary that there be a law that gives rise to some specific rights of persons or property under which adverse claims to such rights are made, and the controversy ensuing therefrom is brought, in turn, before the tribunal, board or officer clothed with power and authority to determine what the law is and thereupon adjudicate the respective rights of the contending parties.

2. ID.; ID.; COMMITTEE OF TEACHERS ON THE RATING OF STUDENTS FOR HONOR IS NEITHER JUDICIAL NOR QUASI-

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[4] Cf. Victorias Milling Co., Inc. *vs.* Municipality of Victorias, Negros Occidental, L-21183, September 27, 1968, 25 SCRA 192, 201.