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[G.R. Nos. L-49839-46. April 26, 1991]

JOSE B.L. REYES and EDMUNDO A. REYES, *petitioners*, *vs.* **PEDRO ALMANZOR, VICENTE ABAD SANTOS, JOSE ROÑO, in their capacities as appointed and Acting Members of the CENTRAL BOARD OF ASSESSMENT APPEALS; TERESITA H. NOBLEJAS, ROMULO M. DEL ROSARIO, RAUL C. FLORES, in their capacities as appointed and Acting Members of the BOARD OF ASSESSMENT APPEALS of Manila; and NICOLAS CATIIL, in his capacity as City Assessor of Manila,** *respondents*.

SYLLABUS

1. **POLITICAL LAW; CONSTITUTIONAL LAW; TAXATION; RULE THEREOF MUST NOT ONLY BE UNIFORM, BUT MUST BE EQUITABLE AND PROGRESSIVE; WORDS "UNIFORMITY," "EQUITABLE," AND "PROGRESSIVE," CONSTRUED.**— Under Art. VIII, Sec. 17 (1) of the 1973 Constitution, then enforced, the rule of taxation must not only be uniform, but must also be equitable and progressive. Uniformity has been defined as that principle by which all taxable articles or kinds of property of the same class shall be taxed at the same rate.

2. **ID.; ID.; INHERENT POWERS OF THE STATE; POWER TO TAX; AN ATTRIBUTE OF SOVEREIGNITY; MAY BE RESTRICTED BY DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE CONSTITUTION.**— Taxation is said to be equitable when its burden falls on those better able to pay. Taxation is progressive when its rate goes up depending on the resources of the person affected (*Ibid.*). The power to tax "is an attribute of sovereignty." In fact, it is the strongest of all the powers of government. But for all its plenitude, the power to tax is not unconfined as there are restrictions. Adversely effecting as it does property rights, both the due process and equal protection clauses of the Constitution may properly be invoked to invalidate in appropriate

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cases a revenue measure. If it were otherwise, there would be truth to the 1903 dictum of Chief Justice Marshall that "the power to tax involves the power to destroy." The web of unreality spun from Marshall's famous dictum was brushed away by one stroke of Mr. Justice Holmes' pen, thus: "The power to tax is not the power to destroy while this Court sits." "So it is in the Philippines."

3. **ID.; ID.; DUE PROCESS CLAUSE; MAY BE INVOKED WHERE A TAXING STATUTE IS SO ARBITRARY THAT IT FINDS NO SUPPORT INTHE CONSTITUTION.**— In the same vein, the due process clause may be invoked where a taxing statute is so arbitrary that it finds no support in the Constitution. An obvious example is where it can be shown to amount to confiscation of property. That would be a clear abuse of power.

4. **ID.; ID.; EQUAL PROTECTION CLAUSE; CONSTRUED.**— The taxing power has the authority to make a reasonable and natural classification for purposes of taxation but the government's act must not be prompted by a spirit of hostility, or at the very least discrimination that finds no support in reason. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different both in the privileges conferred and the liabilities imposed.

5. **TAXATION; REAL PROPERTY TAX CODE (P.D. 464); APPRAISAL AND ASSESSMENT OF REAL PROPERTY FOR TAXATION PURPOSES; PROPERTY MUST BE "APPRAISED AT ITS CURRENT AND FAIR MARKET VALUE."**— Finally under the Real Property Tax Code (P.D. 464 as amended), it is declared that the first Fundamental Principle to guide the appraisal and assessment of real property for taxation purposes is that the property must be "appraised at its current and fair market value." By no stretch of the imagination can the market value of properties covered by P.D. No. 20 be equated with the market value of properties not so covered. The former has naturally a much lesser market value in view of the rental restrictions.

6. **ID.; TAXES; LIFEBLOOD OF THE GOVERNMENT AND SHOULD BE COLLECTED WITHOUT UNNECESSARY HINDRANCE.**— Verily, taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. However, such

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collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxations, which is the promotion of the common good, may be achieved.

APPEARANCES OF COUNSEL

Barcelona, Perlas, Joven & Academia Law Offices for petitioners.

D E C I S I O N

PARAS, *J.*:

This is a petition for review on *certiorari* to reverse the June 10, 1977 decision of the Central Board of Assessment Appeals[1] in CBAA Cases Nos. 72-79 entitled "*J.B.L. Reyes, Edmundo Reyes, et al. v. Board of Assessment Appeals of Manila and City Assessor of Manila*" which affirmed the March 29, 1976 decision of the Board of Tax Assessment Appeals[2] in BTAA Cases Nos. 614, 614-A-J, 615, 615-A, B, E, "*Jose Reyes, et al. v. City Assessor of Manila*" and "*Edmundo Reyes and Milagros Reyes v. City Assessor of Manila*" upholding the classification and assessments made by the City Assessor of Manila.

The facts of the case are as follows:

Petitioners J.B.L. Reyes, Edmundo and Milagros Reyes are owners of parcels of land situated in Tondo and Sta. Cruz Districts, City of Manila, which are leased and entirely occupied as dwelling

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[1] Penned by former Chairman and Acting Minister Pedro Almanzor and concurred in by the then Minister of Justice Vicente Abad Santos and Minister of Local Government and Community Development Jose Roño.

[2] Rendered by then Acting Register of Deeds of Manila Teresita H. Noblejas and concurred in by former City Engineer of Manila Romulo M. del Rosario and OIC of the Office of the City of Auditor Raul C. Flores.

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sites by tenants. Said tenants were paying monthly rentals not exceeding three hundred pesos (₱300.00) in July, 1971. On July 14, 1971, the National Legislature enacted Republic Act No. 6359 prohibiting for one year from its effectivity, an increase in monthly rentals of dwelling units or of lands on which another's dwelling is located, where such rentals do not exceed three hundred pesos (₱300.00) a month but allowing an increase in rent by not more than 10% thereafter. The said Act also suspended paragraph (1) of Article 1673 of the Civil Code for two years from its effectivity thereby disallowing the ejectment of lessees upon the expiration of the usual legal period of lease. On October 12, 1972, Presidential Decree No. 20 amended R.A. No. 6359 by making absolute the prohibition to increase monthly rentals below ₱300.00 and by indefinitely suspending the aforementioned provision of the Civil Code, excepting leases with a definite period. Consequently, the Reyeses, petitioners herein, were precluded from raising the rentals and from ejecting the tenants. In 1973, respondent City Assessor of Manila re-classified and reassessed the value of the subject properties based on the schedule of market values duly reviewed by the Secretary of Finance. The revision, as expected, entailed an increase in the corresponding tax rates prompting petitioners to file a Memorandum of Disagreement with the Board of Tax Assessment Appeals. They averred that the reassessments made were "excessive, unwarranted, inequitable, confiscatory and unconstitutional" considering that the taxes imposed upon them greatly exceeded the annual income derived from their properties. They argued that the income approach should have been used in determining the land values instead of the comparable sales approach which the City Assessor adopted (*Rollo*, pp. 9-10-A). The Board of Tax Assessment Appeals, however, considered the assessments valid, holding thus:

"WHEREFORE, and considering that the appellants have failed to submit concrete evidence which could overcome the presumptive regularity of the classification and assessments appear to be in accordance with the base schedule of market values and of the base schedule of building unit values, as approved by the Secretary of Finance, the cases should be, as they are hereby, upheld.

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"SO ORDERED." (Decision of the Board of Tax Assessment Appeals, *Rollo*, p. 22).

The Reyeses appealed to the Central Board of Assessment Appeals. They submitted, among others, the summary of the yearly rentals to show the income derived from the properties. Respondent City Assessor, on the other hand, submitted three (3) deeds of sale showing the different market values of the real property situated in the same vicinity where the subject properties of petitioners are located. To better appreciate the locational and physical features of the land, the Board of Hearing Commissioners conducted an ocular inspection with the presence of two representatives of the City Assessor prior to the hearing of the case. Neither the owners nor their authorized representatives were present during the said ocular inspection despite proper notices served them. It was found that certain parcels of land were below street level and were affected by the tides (*Rollo*, pp. 24-25).

On June 10, 1977, the Central Board of Assessment Appeals rendered its decision, the dispositive portion of which reads:

"WHEREFORE, the appealed decision insofar as the valuation and assessment of the lots covered by Tax Declaration Nos. (5835) PD-5847, (5839), (5831) PD-5844 and PD-3824 is affirmed.

"For the lots covered by Tax Declaration Nos. (1430) PD-1432, PD-1509, 146 and (1) PD-266, the appealed Decision is modified by allowing a 20% reduction in their respective market values and applying therein the assessment level of 30% to arrive at the corresponding assessed value.

"SO ORDERED." (Decision of the Central Board of Assessment Appeals, *Rollo*, p. 27)

Petitioner's subsequent motion for reconsideration was denied, hence, this petition.

The Reyeses assigned the following error:

THE HONORABLE BOARD ERRED IN ADOPTING THE "COMPARABLE SALES APPROACH" METHOD IN FIXING THE ASSESSED VALUE OF APPELLANTS' PROPERTIES.

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The petition is impressed with merit.

The crux of the controversy is in the method used in tax assessment of the properties in question. Petitioners maintain that the "Income Approach" method would have been more realistic for in disregarding the effect of the restrictions imposed by P.D. 20 on the market value of the properties affected, respondent Assessor of the City of Manila unlawfully and unjustifiably set increased new assessed values at levels so high and excessive that the resulting annual real estate taxes would admittedly exceed the sum total of the yearly rentals paid or payable by the dweller tenants under P.D. 20. Hence, petitioners protested against the levels of the values assigned to their properties as revised and increased on the ground that they were arbitrarily excessive, unwarranted, inequitable, confiscatory and unconstitutional (*Rollo*, p. 10-A).

On the other hand, while respondent Board of Tax Assessment Appeals admits in its decision that the income approach is used in determining land values in some vicinities, it maintains that when income is affected by some sort of price control, the same is rejected in the consideration and study of land values as in the case of properties affected by the Rent Control Law for they do not project the true market value in the open market (*Rollo*, p. 21). Thus, respondents opted instead for the "Comparable Sales Approach" on the ground that the value estimate of the properties predicated upon prices paid in actual, market transactions would be a uniform and a more credible standards to use especially in case of mass appraisal of properties (*Ibid.*). Otherwise stated, public respondents would have this Court completely ignore the effects of the restrictions of P.D. No. 20 on the market value of properties within its coverage. In any event, it is unquestionable that both the "Comparable Sales Approach" and the "Income Approach" are generally acceptable methods of appraisal for taxation purposes (*The Law on Transfer and Business Taxation* by Hector S. De Leon, 1988 Edition). However, it is conceded that the propriety of one as against the other would of course depend on several factors. Hence, as early as 1923 in the case of *Army & Navy*

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Club, Manila v. Wenceslao Trinidad, G.R. No. 19297 (44 Phil. 383), it has been stressed that the assessors, in fixing the value of the property, have to consider all the circumstances and elements of value and must exercise a prudent discretion in reaching conclusions.

Under Art. VIII, Sec. 17 (1) of the 1973 Constitution, then enforced, the rule of taxation must not only be uniform, but must also be equitable and progressive.

Uniformity has been defined as that principle by which all taxable articles or kinds of property of the same class shall be taxed at the same rate (*Churchill v. Concepcion*, 34 Phil. 969 [1916]).

Notably in the 1935 Constitution, there was no mention of the equitable or progressive aspects of taxation required in the 1973 Charter (Fernando *"The Constitution of the Philippines,"* p. 221, Second Edition). Thus, the need to examine closely and determine the specific mandate of the Constitution.

Taxation is said to be equitable when its burden falls on those better able to pay. Taxation is progressive when its rate goes up depending on the resources of the person affected (*Ibid.*).

The power to tax "is an attribute of sovereignty." In fact, it is the strongest of all the powers of government. But for all its plenitude, the power to tax is not unconfined as there are restrictions. Adversely effecting as it does property rights, both the due process and equal protection clauses of the Constitution may properly be invoked to invalidate in appropriate cases a revenue measure. If it were otherwise, there would be truth to the 1903 dictum of Chief Justice Marshall that "the power to tax involves the power to destroy." The web or unreality spun from Marshall's famous dictum was brushed away by one stroke of Mr. Justice Holmes' pen, thus: "The power to tax is not the power to destroy while this Court sits." "So it is in the Philippines." (*Sison, Jr. v. Ancheta*, 130 SCRA 655 [1984]; *Obillos, Jr. v. Commissioner of Internal Revenue*, 139 SCRA 439 [1985]).

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In the same vein, the due process clause may be invoked where a taxing statute is so arbitrary that it finds no support in the Constitution. An obvious example is where it can be shown to amount to confiscation of property. That would be a clear abuse of power (*Sison v. Ancheta, supra*).

The taxing power has the authority to make a reasonable and natural classification for purposes of taxation but the government's act must not be prompted by a spirit of hostility, or at the very least discrimination that finds no support in reason. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different both in the privileges conferred and the liabilities imposed (*Ibid.*, p. 662).

Finally under the Real Property Tax Code (P.D. 464 as amended), it is declared that the first Fundamental Principle to guide the appraisal and assessment of real property for taxation purposes is that the property must be "appraised at its current and fair market value."

By no stretch of the imagination can the market value of properties covered by P.D. No. 20 be equated with the market value of properties not so covered. The former has naturally a much lesser market value in view of the rental restrictions.

Ironically, in the case at bar, not even the factors determinant of the assessed value of subject properties under the "comparable sales approach" were presented by the public respondents, namely: (1) that the sale must represent a *bonafide* arm's length transaction between a willing seller and a willing buyer and (2) the property must be comparable property (*Rollo*, p. 27). Nothing can justify or support their view as it is of judicial notice that for properties covered by P.D. 20 especially during the time in question, there were hardly any willing buyers. As a general rule, there were no takers so that there can be no reasonable basis for the conclusion that these properties were comparable with other residential properties not burdened by P.D. 20. Neither can the given circumstances be nonchalantly

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dismissed by public respondents as imposed under distressed conditions clearly implying that the same were merely temporary in character. At this point in time, the falsity of such premises cannot be more convincingly demonstrated by the fact that the law has existed for around twenty (20) years with no end to it in sight.

Verily, taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. However, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxations, which is the promotion of the common good, may be achieved (*Commissioner of Internal Revenue v. Algue, Inc., et al.*, 158 SCRA 9 [1988]). Consequently, it stands to reason that petitioners who are burdened by the government by its Rental Freezing Laws (then R.A. No. 6359 and P.D. 20) under the principle of social justice should not now be penalized by the same government by the imposition of excessive taxes petitioners can ill afford and eventually result in the forfeiture of their properties.

By the public respondents' own computation the assessment by income approach would amount to only ₱10.00 per sq. meter at the time in question.

PREMISES CONSIDERED, (a) the petition is GRANTED; (b) the assailed decisions of public respondents are REVERSED and SET ASIDE; and (c) the respondent Board of Assessment Appeals of Manila and the City Assessor of Manila are ordered to make a new assessment by the income approach method to guarantee a fairer and more realistic basis of computation (*Rollo*, p. 71).

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and *Davide, Jr., JJ.*, concur.