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FIRST DIVISION

[G.R. No. 214260; May 3, 2021]

MUNICIPALITY OF VILLANUEVA, MISAMIS ORIENTAL represented by Municipal Mayor JULIO T. UY, *Petitioner*, *v.* **STEAG STATE POWER, INC. and MUNICIPALITY OF TAGOLOAN, MISAMIS ORIENTAL,** *Respondents*.

D E C I S I O N

CARANDANG, *J.*:

This Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assails the Decision[2] dated May 20, 2014 and the Resolution[3] dated August 19, 2014 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 02553-MIN, which modified the Decision[4] dated October 8, 2010 of the Regional Trial Court (RTC) of Misamis Oriental, Cagayan De Oro City, Branch 21. The dispositive portion of the decision of the CA reads:

> **WHEREFORE**, the Decision dated October 8, 2010 of the Regional Trial Court (RTC), Branch 21, Cagayan de Oro City is hereby **MODIFIED** to read as follows:
>
> 1. That STEAG is liable to pay local business taxes to Villanueva at the rate of 60% and Tagoloan at the rate of 40% of the 70% of the sales allocation;
> 2. That both municipalities are directed to refund the amount that exceeded their respective shares;
> 3. Both municipalities are enjoined and directed not to deny STEAG the issuance of the business permit for each business year, provided

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[1] *Rollo*, pp. 10-25.

[2] Penned by Associate Justice Edward B. Contreras, with the concurrence of Associate Justices Romulo V. Borja and Edgardo T. Lloren; id. at 30-40.

[3] Id. at 41-45.

[4] Penned by Presiding Judge Gil G. Bollozos; id. at 145-158.

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the proper fees for the permit are paid, including the local business taxes due.

SO ORDERED.[5] (Emphasis in the original)

Facts of the Case

STEAG State Power, Inc. (SPI) filed a complaint dated January 23, 2008 for refund of local business taxes, consignation, and prayer for issuance of temporary restraining order against the Municipalities of Tagoloan and Villanueva in the Province of Misamis Oriental.[6]

SPI is a corporation engaged in the business of generating and selling electricity to the National Power Corporation. SPI operates two 150-megawatt coal-fired thermal units and facilities located in the province of Misamis Oriental. The principal structure of the power plant where electricity is produced is in the Municipality of Villanueva. The water intake facility, which provides for the power plant's water needed to produce electricity, is in the Municipality of Tagoloan.[7]

The controversy arose when the Municipality of Villanueva wanted to impose local business tax on the entire 70% of SPI's sales allocation pursuant to Section 150 (b) of the Local Government Code (LGC). According to the Municipality of Villanueva, since the production of electricity takes place in the plant located in their municipality, it is only appropriate that the entire 70% sales allocation as basis for the local business tax should be paid by SPI to them. Section 150 of the LGC provides that:

Section 150. *Situs of the Tax*. — (a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, maintaining or operating branch or sales outlet

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[5] Id. at 40.

[6] Id. at 31.

[7] Id.

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elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.

(b) The following sales allocation shall apply to manufacturers, assemblers, contractors, producers, and exporters with factories, project offices, plants, and plantations in the pursuit of their business:

(1) Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the principal office is located; and

(2) Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the factory, project office, plant, or plantation is located.

x x x x (Emphasis supplied; italics in the original)

On the other hand, the Municipality of Tagoloan opines that the 70% sales allocation should be divided equally between it and the Municipality of Villanueva as basis for the imposition of the local business tax because the water-intake facility, which is an integral part of producing electricity, is located in the Municipality of Tagoloan.[8]

On September 5, 2007, SPI received an assessment of local business taxes from the Municipality of Villanueva amounting to ₱4,141,626.979 for its gross income for calendar year 2006. SPI protested and argued that the tax assessment was made on the tax base of the full 70% sales allocation, which the Municipality of Tagoloan will also use in its assessment. When the Municipality of Villanueva denied the protest, SPI paid the assessment under protest on December 6, 2007.[9]

Meanwhile, on November 28, 2007, the Municipality of Tagoloan also issued an assessment against SPI based on the

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[8] Id. at 153.

[9] Id.

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50% of the 70% sales allocation and demanded the payment of ₱2,280,089.06. On December 10, 2007, SPI paid the said amount also under protest.[10]

On January 17, 2008, SPI received a computation from the Municipality of Tagoloan for an assessment of ₱16,872,253.04 representing local business tax on the entire 70% sales allocation for calendar year 2007.[11]

In an Order dated April 11, 2008, the RTC resolved SPI's urgent motion for consignation and issuance of a preliminary mandatory injunction in this wise:

> WHEREFORE, premises considered, it is hereby ordered:
> 1. The plaintiff will consign *pendente lite* to this Court the amount of local business taxes which they believe the are liable to pay to defendant municipalities for the first quarter of 2008 in the amount of ₱4,218,063.26 and for the taxes due for the succeeding quarters of 2008.
> 2. The defendant municipalities are directed to submit to this Court not later than April 16, 2008 their respective first quarter 2008 computation of local business tax due to plaintiff, based on the 70% sales allocation wherein they will divide the sales allocation equally as basis for the imposition of local business tax, so that this Court will be able to allocate appropriately the first Quarter 2008 tax of ₱4,218,063.26 consigned by plaintiff, which this Court will order subsequently to be given to the defendants Municipalities immediately upon receipt of the computation;
> 3. That defendants who allegedly did not yet issue business permit to plaintiff, if not still able to do so at this time, is directed to issue the business permit to plaintiff upon consignation of the first quarter 2008 tax.[12]

Thereafter, SPI consigned to the RTC the amount of ₱8,436,126.52 as payment for the local business taxes covering the first and second quarters of 2008.[13] Pre-trial then ensued.

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[10] Id.

[11] Id. at 153-154.

[12] Id. at 34.

[13] Id. at 35.

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Subsequently, the parties proceeded and appeared before the Philippine Mediation Center. However, the mediation failed. Hence, after the parties submitted their respective pleadings, the case was deemed submitted for decision.[14]

Ruling of the Regional Trial Court

On October 8, 2010, the RTC rendered its Decision[15] dividing the 70% sales allocation equally between the two municipalities as tax base for the computation of the local business tax.[16] The RTC also ordered that the Municipalities of Villanueva and Tagoloan should refund overpayments made to them by SPI. Both municipalities were also directed to issue business permits for each business year provided the proper fees and the local business taxes were paid pursuant to the decision.[17]

Paragraphs (c) and (d) of Section 150 of the LGC provides the following rules for the determination of the correct tax base for the 70% sales allocation, to wit:

> (c) In case of a plantation located at a place other than the place where the factory is located, said seventy percent (70%) mentioned in subparagraph (b) of subsection (2) above shall be divided as follows:
>
> (1) Sixty percent (60%) to the city or municipality where the factory is located; and
>
> (2) Forty percent (40%) to the city or municipality where the plantation is located.
>
> (d) In cases where a manufacturer, assembler, producer, exporter or contractor has two (2) or more factories, project offices, plants, or plantations located in different localities, the seventy percent (70%) sales allocation mentioned in subparagraph (b) of subsection (2) above shall be prorated among the localities where the factories, project offices, plants, and plantations are located in proportion to their respective volumes of production during the period for which the tax is due.

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[14] Id.

[15] Supra note 4.

[16] *Rollo*, p. 157.

[17] Id. at 158.

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However, according to the RTC, these rules are not applicable in this case. *First*, paragraph (c) cannot be applied because there is no plantation and factory involved in the electricity generation of SPI. *Second*, paragraph (d) is also not applicable because although SPI is a contractor, there are no two or more plants located in different cities and municipalities. Rather, SPI has only one plant that encompasses two municipalities. The RTC found that the structure situated in the Municipality of Villanueva alone cannot produce the electricity without the water-intake facility situated in the Municipality of Tagoloan. Thus, the RTC concluded that the two municipalities should divide the 70% sales allocation equally between them as basis for the local business tax.[18]

The Municipality of Villanueva filed a motion for reconsideration but it was denied in a Resolution dated January 14, 2011. Due to the denial of its motion, the Municipality of Villanueva elevated the case to the CA.[19]

Ruling of the Court of Appeals

In its Decision[20] dated May 20, 2014, the CA modified the ruling of the RTC and applied the provisions of paragraph (c) of Section 150 of the LGC. Thus, the CA ruled that SPI is liable to pay local business taxes to the Municipality of Villanueva at the rate of 60% and to the Municipality of Tagoloan at the rate of 40% of the 70% sales allocation. The CA likewise directed both municipalities to refund any payment made by SPI in excess of their respective shares.[21]

In arriving at its decision, the CA held that the Municipality of Villanueva houses the power plant. The CA considered SPI's power plant as the factory or a place utilized to produce the manufacturer's product, which in this case is electricity. The Municipality of Villanueva houses the major structures and equipment of SPI. On the other hand, the CA likened the water-

[18] Id. at 157.

[19] Id. at 36.

[20] Supra note 2.

[21] *Rollo*, pp. 38-40.

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intake facility located in the Municipality of Tagoloan as the plantation, because it supplied water to the power plant in the Municipality of Villanueva.[22]

However, the Municipality of Villanueva was not satisfied with the ruling of the CA, hence it moved for reconsideration. The CA denied the motion in a Resolution[23] dated August 19, 2014. Thus, the Municipality of Villanueva filed this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

The Municipality of Villanueva argues that the local business taxes pertaining to the 70% sales of SPI should be fully paid to it because SPI's power plant where all electricity is wholly produced is located in the Municipality of Villanueva.[24] The Municipality of Villanueva claims that the mere presence of ancillary facilities in the Municipality of Tagoloan cannot be the basis in concluding that the power plant is located in two municipalities as these ancillary facilities do not produce electricity.[25] According to the Municipality of Villanueva, it is wrong to conclude that the water-intake facility located in the Municipality of Tagoloan is an integral part of the power plant.[26]

In its Comment,[27] the Municipality of Tagoloan pleads for the Court's justice, fairness, and equity in resolving the case.[28]

SPI on the other hand, defers to the judgment and wisdom of the Court in deciding the case.[29]

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[22] Id. at 38-39.

[23] Supra note 3.

[24] *Rollo*, p. 21.

[25] Id. at 22.

[26] Id. at 23.

[27] Id. at 202-210.

[28] Id. at 210.

[29] Id. at 195.

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Issue

The issue in this case is whether the CA correctly resolved the issue in this case.

Ruling of the Court

The appeal to the CA filed by the Municipality of Villanueva questioning the ruling of the RTC in resolving the correct tax base for the local business taxes to be imposed against SPI as well as in ordering the refund of the excess local business taxes paid by SPI, was improper. The CA has no jurisdiction to take cognizance of the said appeal because the court which has authority to review the ruling of the RTC is the Court of Tax Appeals (CTA).

Section 7 of Republic Act No. (R.A.) 9282 or "An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes" enumerates the following jurisdiction of the CTA:

Section 7. Jurisdiction. – The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

(3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

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(4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

(5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(6) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

(7) Decisions of the Secretary of Trade and Industry, in the case of non-agricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and counter ailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.

x x x x (Emphasis supplied)

The complaint filed by the SPI to the RTC described the same as a claim for refund of excess local business taxes and consignation. SPI also prayed that the RTC should determine the respective shares of the Municipalities of Villanueva and Tagoloan in its 70% sales allocation. Clearly, the subject matter of the complaint before the RTC is the correct local business taxes that may be imposed against SPI. Since Section 7 of R.A. 9282 explicitly provide that a review of the decision of the RTC regarding local taxes should be filed before the CTA, the appeal lodged by the Municipality of Villanueva to the CA was wrong.

It must be noted that R.A. 9282 took effect in 2004 or four years before the filing of the complaint in the RTC in 2008 and ten years before the filing of the appeal to the CA in 2014. Thus, the Municipality of Villanueva should have complied with the provisions of R.A. 9282 and elevated the case to the CTA and not to the CA.

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It is elementary that a judgment rendered by a court without jurisdiction is null and void and may be attacked anytime.[30] It creates no rights and produces no effect.[31] It remains a basic fact in law that the choice of the proper forum is crucial, as the decision of a court or tribunal without jurisdiction is a total nullity.[32] A void judgment for want of jurisdiction is no judgment at all.[33] All acts performed pursuant to it and all claims emanating from it have no legal effect.[34]

Since no proper appeal or petition for review is filed to question the correctness of the decision of the RTC, it has become final and executory.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The Decision dated May 20, 2014 and the Resolution dated August 19, 2014 rendered by the Court of Appeals in CA-G.R. CV No. 02553-MIN are **NULL and VOID** for lack of jurisdiction.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Zalameda, Gaerlan, and *Rosario,*[*] *JJ.*, concur.

APPEARANCES OF COUNSEL

Kho, Rhoa & Partners for petitioner.

Gatmaytan Yap Patacsil Gutierez & Protacio for respondent Steag State Power, Inc.

Barba & Associates Law Office for respondent Municipality of Tagoloan.

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[30] *Bilag v. Ay-ay*, 809 Phil. 236, 243 (2017).

[31] Id.

[32] Id.

[33] Id.

[34] Id.

[*] Designated as Additional Member.