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and trial of the accused upon the information filed in the case. With costs *in solidum* against defendants-appellees.

Reyes J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and *Barredo, JJ.,* concur.

Reyes, J.B.L., Acting C.J.: Mr. Chief Justice Concepcion and Mr. Justice Fred Ruiz Castro voted for the setting aside of the order appealed from and the remanding of the case to the lower court for further proceedings in accordance with the decision.

Capistrano, J., did not take part.

Order set aside.

[G.R. No. L-24402. April 30, 1969]

PEDRO V. C. ENRIQUEZ, petitioner-appellant *vs.* THE HONORABLE SECRETARY OF FINANCE, PASAY CITY ASSESSOR and PASAY CITY TREASURER, respondents-appellees.

SYLLABUS

1. TAXATION; TAX; BOARD OF TAX APPEALS; REPUBLIC ACT 1125 DID NOT DIVEST THE SECRETARY OF FINANCE OF HIS AUTHORITY TO REVIEW ADMINISTRATIVE DECISIONS OF THE CITY BOARD OF TAX APPEALS.— The creation of the Court of Tax Appeals through Republic Act No. 1125 did not divest the Secretary of Finance of his authority to review the decisions of the Board of Tax Appeals of Pasay City on the listing and assessment of real estate for realty tax purposes, on the principal ground that Congress expressed its intent to retain the power of the Secretary to review administratively the decisions of the City Board of Tax Appeals in its later enactment of Republic Act No. 3275.

2. ID.; ID.; ID.; REPUBLIC ACT 3275 RETAINS POWER OF SECRETARY OF FINANCE TO REVIEW ADMINISTRATIVELY DECISIONS OF THE CITY BOARD OF TAX APPEALS.— The principal amendments made in Section 42 of the Pasay City Charter by Republic Act 3275 were the granting of authorization to the Board of Tax Appeals to hold sessions beginning from the month of February

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to hear all appeals transmitted to it, unlike previously, where its sessions had to be authorized by the Secretary of Finance; and the deletion of the clause in the old provision whereby its power to revise and correct erroneous or unjust assessments had to be exercised "with the approval of the Department first had." But the provision granting the Secretary of Finance as Department Head the authority to declare the decisions of the Board of Tax Appeals reopened for review by him, was expressly retained.

3. ID.; ID.; ID.; POWER OF REVIEW OF SECRETARY OF FINANCE AND COURT OF TAX APPEALS, DISTINGUISHED.— The power of the Secretary of Finance under Section 42 of the City Charter, as amended by Republic Act No. 3275 refers to *administrative review* of the decisions of the City Board of Tax Appeals, to be exercised by him *motu proprio* or upon petition of either the City Assessor or the real estate power, whereas under Sections 7 and 11 of Republic Act No. 1125, the power of the Court of Tax Appeals refers to *judicial review* by appeal. The administrative review by the Secretary of Finance may conceivably satisfy the taxpayer, thus doing away with the need of his going to the Court of Tax Appeals, while the City Assessor has been held to have no personality to resort to the said Court. On the other hand, should the result of such administrative review not be acceptable to the taxpayer, he still retains his right to seek judicial review by appeal to the Court of Tax Appeals.

4. ID.; ID.; ID.; SECTION 42 OF THE CITY CHARTER OF PASAY CITY CANNOT BE ASSAILED ON CONSTITUTIONAL GROUNDS.— Assuming that the power of administrative review of the decisions of the City Board of Tax Appeals is not found in the charters of all other cities in the country as granted by Congress, nevertheless the provision cannot be assailed on constitutional grounds. The difference would consist merely in a question of procedure but the taxpayers of Pasay City cannot be said to be placed in a more advantageous or disadvantageous position than taxpayers in other cities, simply because the City Charter grants the Secretary of Finance the power to review administratively the decisions of the Board of Tax Appeals of Pasay City. More importantly, as pointed out by this Court in Unson *vs.* Hon. A. H. Lacson, et al., "municipal corporations in the Philippines are mere creatures of Congress; that, as such, said corporations possess, and may exercise, *only* such power as Congress may deem fit to grant thereto; that charters of municipal corporations should not be construed in the same manner as

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constitutions." The equal protection clause may not be validly invoked by a municipal corporation to complain against a lesser grant of jurisdiction and functions in its charter as against a larger grant of powers and autonomy by Congress in the charters of other municipal corporations.

APPEARANCES OF COUNSEL

Carlos J. Antipolo for plaintiff-appellant.

Solicitor General Arturo A. Alafriz, Assistant Solicitor General Isidro C. Borromeo and *Solicitor Santiago M. Kapunan* for respondents-appellees.

DECISION

TEEHANKEE, *J.*:

This action for declaratory relief poses the question of whether the Secretary of Finance has been deprived by Republic Act No. 1125, which created the Court of Tax Appeals, of his authority to review the decisions of the Board of Tax Appeals of Pasay City on the listing and assessment of real estate therein under Section 42 of Republic Act No. 183, the City Charter, as amended by Republic Act No. 3275.

Petitioner is the owner of Lot No. 2236, Block No. 5 at the corner of Dominga and A. Flores Streets, Pasay City, which was assessed for taxation purposes by the City Assessor for ₱13,340.00 effective the year 1960. Not satisfied with the assessment, he filed an appeal with the City Board of Tax Appeals,[1] pursuant to Section 42 of the City Charter, and the said Board in its resolution of November 18, 1963, reduced the assessment of the property from ₱13,340.00 to ₱9,695.00, effective 1960. Subsequently, on December 5, 1963, the City Assessor served petitioner with a Notice of Adjustment of the assessed value of the lot increasing the assessment from ₱13,340.00 to ₱16,350.00 effective the year 1964, "in strict compliance with the new appraisal manual (1963) of the Department of Finance" and citing the reason that "Dominga St. is now concrete."[2] On February 10, 1964, the

[1] PBTA Case No. 214, Annex "A" Petition, Rec. on App., p. 10.

[2] Annex "B", Petition, Rec. on App., p. 13.

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Secretary of Finance reopened for review the said resolution of the City Board of Tax Appeals as well as its resolutions in some 207 other cases of city real estate owners, pursuant to Section 42 of the City Charter.

Contending that respondent Secretary has been deprived of his authority to review resolutions of the City Board of Tax Appeals by virtue of the creation of the Court of Tax Appeals under Republic Act No. 1125 which vested said Tax Court with "exclusive appellate jurisdiction to review by appeal," *inter alia,* "decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto,"[3] petitioner-appellant brought this action for declaratory relief in the Court of First Instance of Pasay City. The lower court dismissed the petition for lack of merit, and the case is before us on appeal.

We hold that the lower court correctly rejected petitioner's contention that the creation of the Court of Tax Appeals through Republic Act No. 1125 divested the Secretary of Finance of his authority to review the decisions of the Board of Tax Appeals of Pasay City on the listing and assessment of real estate for realty tax purposes, on the principal ground that Congress expressed its intent to retain the power of the Secretary to review administratively the decisions of the City Board of Tax Appeals in its later enactment of Republic Act No. 3275.

Republic Act No. 3275, which amended certain sections of the Pasay City Charter[4] took effect on June 17, 1961, which was a much later date than the approval on June 16, 1954 of Republic Act No. 1125. The sections of the City Charter amended by Republic Act No. 3275 were the vital sections concerning the listing and assessment of real estate in the city, the functions of the Board of Tax Appeals, whose composition was radically changed, and proceedings before the Board of Tax Appeals and the Department

[3] Section 7, Rep. Act No. 1125.

[4] Republic Act No. 183, approved June 21, 1947.

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Head. Thus, Section 36 of the City Charter was amended so as to restrict the authority of the City Assessor to reduce or increase existing assessments to "once every three years" instead of annually.[5] The amendment of Section 40 of the City Charter drastically changed the composition and tenure of the 5-member Board of Tax Appeals from "three members of the Board . . . selected from among government officials in the city other than those in charge of assessment . . . and two other members . . . selected from among property owners in the city" holding office for a term of two years, to three owners of real estate in the city and two others representing the tenant-lessee interest in the city "upon the recommendation of the Pasay Homeowners Association, Inc.," holding office for a term of four years.[6] Lastly, Section 42 of the City Charter was amended, to provide as follows:

"SEC. 3. Section forty-two of the same Act is hereby amended to read as follows:

"Sec. 42. The Board of Tax Appeals shall hold sessions beginning from the month of February to hear all appeals duly transmitted to it, and shall decide the same forthwith. It shall have the authority to cause to be amended the listing and valuation of the property in respect to which any appeal has been perfected by order signed by the Board or a majority thereof, and transmit it to the city assessor who shall amend the tax in conformity with said Order. Such reassessment and revaluation shall be made on due notice to the individual concerned who shall be entitled to be heard by the Board of Tax Appeals before any reassessment or revaluation is made. *The decision of the Board of Tax Appeals shall be final unless the Department Head declares the decision reopened for review, by him, in which case he may make such revision or revaluation as in his opinion the circumstances justify.* Such revision when approved by the President of the Philippines shall be final." (R.A. 3265)[7]

The principal amendments thus made in Section 42 of the City Charter were the granting of authorization to the Board of Tax Appeals to hold sessions beginning from the month of February to hear all appeals transmitted to it, unlike previously, where its

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[5] Sec. 1, Republic Act 3275.

[6] Sec. 2, Republic Act 3275.

[7] **Italics supplied.**

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sessions had to be authorized by the Secretary of Finance; and the deletion of the clause in the old provision whereby its power to revise and correct erroneous or unjust assessments had to be exercised "with the approval of the Department first had." But the above-underlined provision granting the Secretary of Finance as Department Head the authority to declare the decisions of the Board of Tax Appeals reopened for review by him, was expressly retained. The legislative intent to retain the Secretary's power of administrative review over the City Board of Tax Appeals in the face of these deliberate changes and amendments of the City Charter dealing with the assessment of real estate cannot, therefore, be seriously questioned. The conflicting insinuations of appellant in his brief that the retention of the provision was a legislative oversight or that said provision might have been "smuggled" into law[8] are too bereft of any basis in the record to warrant any further attention. On the contrary, as indicated by the City Assessor, the drastic change in the composition of the membership of the City Board of Tax Appeals whereby it is now entirely composed of property-owners and representatives of tenants-lessees with the elimination of the previous majority of three city officials appears to have motivated Congress to retain the Secretary of Finance's power of administrative review over the said board's decisions.[9]

It should further be noted that there is no irreconcilable conflict between the two statutes in question. The power of the Secretary of Finance under Section 42 of the City Charter, as amended by Republic Act No. 3275 refers to *administrative review* of the decisions of the City Board of Tax Appeals, to be exercised by him *motu proprio* or upon petition of either the City Assessor or the real estate owner, whereas under Sections 7 and 11 of Republic Act No. 1125, the power of the Court of Tax Appeals refers to *judicial review* by appeal. The administrative review by the Secretary of Finance may conceivably satisfy the taxpayer,

[8] Appellant's Brief, p. 11.

[9] Petition, Annex "B", Rec. on App., pp. 21-24.

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thus doing away with the need of his going to the Court of Tax Appeals, while the City Assessor has been held to have no personality to resort to the said Court.[10] On the other hand, should the result of such administrative review not be acceptable to the taxpayer, he still retains his right to seek judicial review by appeal to the Court of Tax Appeals.

Appellant finally contends that Section 42 of the City Charter of Pasay City granting the Secretary of Finance the authority to reopen for review the decisions of the City Board of Tax Appeals is "class legislation" and should therefore be held unconstitutional because the charters of other cities in the Philippines allegedly do not carry a similar provision. Assuming that the same power of administrative review is not found in the charters of all other cities in the country as granted by Congress, nevertheless the provision cannot be assailed on constitutional grounds. The difference would consist merely in a question of procedure but the taxpayers of Pasay City cannot be said to be placed in a more advantageous or disadvantageous position than taxpayers in other cities, simply because the City Charter grants the Secretary of Finance the power to review administratively the decisions of the Board of Tax Appeals of Pasay City. More importantly, as pointed out by this Court in Unson *vs.* Hon. A.H. Lacson, et al.,[11] "municipal corporations in the Philippines are mere creatures of Congress; that, as such, said corporations possess, and may exercise, *only* such power as Congress may deem fit to grant thereto; that charters of municipal corporations should not be construed in the same manner as constitutions." The equal protection clause may not be validly invoked by a municipal corporation to complain against a lesser grant of jurisdiction and functions in its charter as against a larger grant of powers and autonomy by Congress in the charters of other municipal corporations.

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[10] Ursal *vs.* Court of Tax Appeals, 101 Phil. 209.

[11] 100 Phil. 695, 700.

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WHEREFORE, the decision appealed from is hereby affirmed, with costs.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando and *Barredo, JJ.,* concur.

Capistrano, J., did not take part.

Reyes, J.B.L., Acting C.J.: Mr. Chief Justice Concepcion, on leave, voted for the affirmance of the decision appealed from. Mr. Justice Fred Ruiz Castro is on leave.

Judgment affirmed.

[G.R. No. L-24507. April 30, 1969]

ARSENIO REYES, plaintiff-appellant *vs.* REYNALDO B. CHAVOSO, et al., defendants-appellees.

SYLLABUS

1. CIVIL LAW; REAL MORTGAGE; REDEMPTION; REDEMPTION MONEY MAY BE MADE TO THE SHERIFF.— Section 31 of Rule 39 expressly provides that the payment of the redemption money may be made to the sheriff. It is unnecessary for the redemptioner to seek out the purchaser for the purpose of making payment to him. This is not only in accordance with the express provision of the Rules of Court, but is likewise sanctioned by decisional dicta.

2. ID.; ID.; ID.; ID.; ACCEPTANCE ONLY OF PURCHASE PRICE AND INTERESTS THEREON PROPER IN INSTANT CASE.— Even on the assumption that appellant had really paid the assessments, taxes and commissions alluded to by him, he cannot now be heard to complain that the said sheriff violated his duty by accepting only the purchase price at the auction sale and the interests thereon, for without the required notice from appellant that he had made additional payments in the form of assessments, taxes and commissions, the sheriff concerned was in no position to know them.

3. ID.; ID.; ID.; ID.; ID.; REDEMPTIONER OR SHERIFF NOT DUTY BOUND TO MAKE NOTICE OF REDEMPTION TO PURCHASER.— Neither is appellant right in saying that he failed to make such notice precisely because he was not aware of the redemption, intimating that it was the duty of either the redemptioner