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Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and *Escolin, JJ.*, concur.

Aquino, J., took no part.

FIRST DIVISION

[G.R. No. 59463. November 19, 1982]

PROVINCE OF NUEVA ECIJA, plaintiff-appellant, *vs.* IMPERIAL MINING COMPANY, INC., defendant-appellee.

SYNOPSIS

In 1968, appellee, a mining company, leased from the Government placer mining claims (192 hectares) with the right to explore, develop, mine, extract and dispose of mineral products. The contract provided that the lessee shall pay real estate tax on all buildings and improvements built on the leased property but was silent on the obligation of the lessee to pay realty tax on the mineral land itself. In 1974, when Presidential Decree 464 (Real Property Tax Code of 1974) was issued, the Provincial Assessor of Nueva Ecija where the property is located declared and assessed the leased property in the name of appellee. In September, 1976, the Province of Nueva Ecija instituted an action for collection of real property tax on the mineral land in question covering 1970-1976 in the amount of ₱38,836.22. Appellee resisted, maintaining that the mineral land subject of the assessment is owned by the Government and therefore exempt from real estate tax. After trial, the lower court dismissed the complaint holding that under the terms of the lease contract and the provisions of Section 87 of Commonwealth Act 137, the leased mineral lands were not subject to the payment of the real estate tax and that Presidential Decree 464 did not change the rule. Hence, this appeal.

The Supreme Court held that under the former Assessment Law, the basis of realty taxation was ownership or interest tantamount to ownership so that in the Mining Act then in force leased mineral land was not subject to real estate tax; but Presidential Decree 464 changed the basis of real property taxation from ownership to use and, consequently, from the date of its issuance in 1974, lessees of mineral lands are liable for payment of real estate tax.

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Appealed decision is modified as regards the tax liability of defendant-appellee under Presidential Decree 464. The records of the case are ordered remanded to the trial court for further proceedings.

SYLLABUS

1. TAXATION; REAL PROPERTY TAX; BASIS OF TAXABILITY UNDER COMMONWEALTH ACT 470, OWNERSHIP; CASE AT BAR.— When IMC in 1968 obtained a lease on the mineral land in question, the law governing real property taxation was the former Assessment Law, Commonwealth Act 470, and the basis of realty taxation thereunder was *ownership* or interest tantamount to ownership. A mere lessee of mineral land was therefore not liable for the payment of realty tax thereon. This was recognized in the Mining Act then in force, Commonwealth Act 137, under which leased mineral land was not subject to real estate tax (Sec. 87). The lease contract of IMC was executed in accordance with these laws. The absence of a stipulation therein making the lessee liable for realty tax on the leased mineral land was just a recognition of the real property tax principle then prevailing; it was not a contractual commitment or guarantee by the Department of Agriculture and Natural Resources that with respect to the leased mineral land, IMC would permanently be exempt from real property taxation. That agency could not have made that commitment because it was not authorized to do so; and it could not bind the lawmaking body by stipulating in effect against amendment of the law on real property taxation.

2. ID.; ID.; BASIS OF TAXABILITY IN PRESIDENTIAL DECREE 464 CHANGED FROM OWNERSHIP TO ACTUAL USE; LESSEE SUBJECT TO REAL ESTATE TAX IN CASE AT BAR.— In 1974, a new Real Property Tax Code came into being when Presidential Decree 464 was issued. It changed the basis of real property taxation. It adopted the policy of taxing real property on the basis of *actual use, even if the user is not the owner* (Sections 3 (a) and 19 of PD 464). It is true that Presidential Decree 464 recognizes and respects real property tax exemption "under other laws" and one such law, with respect to mineral land, is Presidential Decree 463 (Section 53), the Mineral Resources Development Decree of 1974. It does not appear however that IMC was entitled to tax exemption, including exemption from real property tax, under Section 53 of Presidential Decree 463 during the period here in question.

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APPEARANCES OF COUNSEL

Isabelo Tadianan for plaintiff-appellant.
Romeo Perez for defendant-appellee.

DECISION

PLANA, *J.*:

This is an appeal from the decision of the Court of First Instance of Nueva Ecija, Branch VIII, in Civil Case No. C-4 for collection of real property tax, which has been certified to this Court by the Court of Appeals as a case involving purely a question of law. The legal issue is whether defendant-appellee Imperial Mining Company, Inc. (IMC), lessee of some parcels of mineral land (placer mining claims) in Carranglan, Nueva Ecija, is liable for real property tax thereon, although the said mineral land forms part of the public domain.

The antecedent facts are simple. In 1968, IMC leased from the Government thru the Department of Agriculture and Natural Resources placer mining claims (192 hectares) with the right to explore, develop, mine, extract and dispose of mineral products. In the lease contract, it was stipulated that "the Lessee shall pay real estate tax on all buildings and other improvements built on the land leased." The contract however was silent on the obligation of the lessee to pay realty tax on the mineral land itself, as distinguished from the improvements thereon.

In 1974, the Provincial Assessor of Nueva Ecija declared the leased property in the name of IMC; and subsequently, IMC was assessed for real property tax.

In September, 1976, the Province of Nueva Ecija instituted the instant suit for the collection of real property tax on the mineral land in question covering 1970-1976 in the amount of ₱38,836.22. The defendant resisted, maintaining that the mineral land subject of the assessment was owned by the Government and therefore exempt from real estate tax. After trial, the Court of First Instance dismissed the complaint in reliance upon the terms of the lease contract and the provisions of Section 87 of the old Mining Act

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(Commonwealth Act 137) which did not subject leased mineral lands to the payment of real estate tax. The trial court observed that the Real Property Tax Code of 1974 (Presidential Decree 464) which took effect on June 1, 1974 did not change the rule.

Hence, this appeal.

When IMC in 1968 obtained a lease on the mineral land in question, the law governing real property taxation was the former Assessment Law, Commonwealth Act 470, and the basis of realty taxation thereunder was *ownership* on interest tantamount to ownership. A mere lessee of mineral land was therefore *not liable* for the payment of realty tax thereon. This was recognized in the Mining Act then in force, Commonwealth Act 137, under which leased mineral land was not subject to real estate tax. (Sec. 87.). The lease contract of IMC was executed in accordance with these laws. The absence of a stipulation therein making the lessee liable for realty tax on the leased mineral land was just a recognition of the real property tax principle then prevailing; it was not a contractual commitment or guarantee by the Department of Agriculture and Natural Resources that with respect to the leased mineral land, IMC would permanently be exempt from real property taxation. That agency could not have made that commitment because it was not authorized to do so; and it could not bind the lawmaking body by stipulating in effect against amendment of the law on real property taxation.

In 1974, a new Real Property Tax Code came into being when Presidential Decree 464 was issued. It changed the basis of real property taxation. It adopted the policy of taxing real property on the basis of *actual use, even if the user is not the owner.*

"Actual use — shall refer to the purpose for which the property is principally or **predominantly** utilized by the person in possession of the property." [Sec. 3(a).]

"Actual Use of Real Property as Basis for Assessment.— Real property shall be assessed on the *basis of its actual use* regardless of where located and *whoever uses it.*" (Section 19. Italics supplied.)

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The above policy declaration is given substance in various provisions of the new law. Thus, Section 40 of Presidential Decree 464 specifies the exemptions from real property tax.

"SEC. 40. *Exemption from Real Property Tax.*— The exemption shall be as follows:

"a) Real property owned by the Republic of the Philippines or any of its political subdivisions and any government-owned corporation so exempt by its charter: *Provided, however,* That *this exemption shall not apply to real property of the abovenamed entities the beneficial use of which has been granted,* for consideration or otherwise, *to a taxable person.*

. . . . . .

"e) *Land acquired by* grant, purchase or *lease from the public domain* for conversion into dairy farms for a period of five years from the time of such conversion . . . "

Incidentally, Presidential Decree 939 was subsequently enacted further exempting from real property tax "pasture and/or grazing *lands acquired by* grant, purchase or *lease* from *the public domain,* actually used for livestock production, for a period of five years . . ."

The foregoing exemptions make it very clear that *leased* lands of the public domain would otherwise be subject to real property tax; if that were not so, there would have been no need to specifically exempt some of them from real property tax.

Presidential Decree 464 also prescribes the classification of real property for assessment purposes, specifically including mineral land: "For purposes of assessment, real property shall be classified as residential, agricultural, commercial or industrial and also as *mineral* in the case of lands." (Section 18.) And for purposes of real property taxation, the assessment levels to be applied as regards mineral lands are laid down:

"Mineral Lands— For purposes of taxation, *mineral lands not covered by lease* shall be appraised at fifty per cent of their market value to be determined by the Secretary of Finance upon consultation with the Director of Mines; *Provided, however,* that *mineral lands covered by leases* shall be declared for taxation purposes either by the owner of the land or lessee and

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the assessment level thereof shall be maintained at the current level of fifty per cent." [Sec. 20 (b). Italics supplied.]

It is true that Presidential Decree 464 recognizes and respects real property tax exemption "under other laws" and one such law, with respect to mineral land, is Presidential Decree 463, the Mineral Resources Development Decree of 1974, which provides:

"SEC. 53. Tax Exemptions.— Machineries, equipment, tools for production, plants to convert mineral ores into saleable form, spare parts, supplies, materials, accessories, explosives, chemicals and transportation and communication facilities imported by and for the use of new mines and old mines which resume operation, when certified as such by the Secretary (of Natural Resources) upon recommendation of the Director (of Mines), are exempt from the payment of customs duties and all taxes except income tax for a period starting from the first date of actual commercial production of saleable mineral products."

. . . . . .

"All mining claims, improvements thereon and mineral products derived therefrom shall likewise be exempt from the payment of all taxes, except income tax, for the same period provided for in the first paragraph of this section."

It does not appear however that IMC was entitled to tax exemption, including exemption from real property tax, under Section 53 of Presidential Decree 463 during the period here in question.

We therefore conclude that under the provisions of Presidential Decree 464, IMC is subject to the payment of real property tax on the mineral land leased by it. Since the said law took effect on June 1, 1974, and assessment in pursuance thereof was made after January 1, 1974, the liability of IMC for real property tax on the mineral land leased by it should start on January 1, 1975 pursuant to Section 24 of P.D. 464:

"Date of Effectivity of Assessment or Reassessment.— All assessment or reassessment made after the first date of January of any year shall take effect on the first day of January of the succeeding year."

Wherefore, the decision of the lower court dismissing the complaint in Civil Case No. C-4 is hereby modified as regards

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the real property tax liability of defendant-appellee under P.D. 464. The records of the case are ordered remanded to the trial court for further proceedings to determine the amount of real property tax due from IMC in accordance with this decision. Costs against defendant-appellee.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Vasquez, Relova and *Gutierrez, Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. 59596. November 19, 1982]

NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWU-WIF) JUANITO DE LA CRUZ, MARIANO MARQUEZ, CONSTANCIO PASTOR, RICARDO EVARDOLAZA, CRISTINA MERANO, ET AL., petitioners, *vs.* NATIONAL LABOR RELATIONS COMMISSION AND FIRST MANUFACTURING COMPANY OF THE PHILIPPINES, respondents.

SYNOPSIS

After petitioner union had filed a petition for certification election with the Bureau of Labor Relations, respondent company falsely charged four union members with falsification and "temporarily laid off" the chairman of the union's board of directors. When the petition for certification election was granted and a date was set for the holding thereof, respondent company applied for clearance to close its business operations. Then respondent company informed its workers that a gradual transfer of business from the old premises to a new site one kilometer away would be effected, but no order regarding the transfer was issued to the workers. When petitioners reported for work at the old site, they were refused entry by the guards. When they reported to the new site, they were given no work and no assignments, and were thereafter dismissed for insubordination and abandonment of duties. Consequently, petitioners filed a complaint for unfair labor practice before respondent National Labor Relations Commission against respondent company which in turn filed a counter-