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FIRST DIVISION

[G.R. No. L-32364. April 30, 1979]

RAMIE TEXTILES, INC., *petitioner, vs.* **HON. ISMAEL MATHAY, SR., in his capacity as Auditor General,** *respondent.*

SYLLABUS

1. **TAXATION; CLAIM FOR REFUND; PROTEST NOT A CONDITION PRECEDENT IN ORDER THAT TAXES MISTAKENLY PAID MAY BE REFUNDED.** — Protest is not a requirement in order that a taxpayer who paid under a mistaken belief that it is required by law, may claim for a refund. Section 54 of Commonwealth Act No. 470 does not apply to a taxpayer which could conceivably not have been expected to protest a payment it honestly believed to be due. The same refers only to the case where the taxpayer, despite his knowledge of the erroneous or illegal assessment, still pays and fails to make the proper protest, for in such case, he should manifest an unwillingness to pay, and failing so, the taxpayer is deemed to have waived his right to claim a refund. The fact that a taxpayer paid the tax without protest, he cannot be said to have waived his right, where he had no knowledge that he was exempted from the payment of said tax. Payment made through error or mistake, in the honest belief that the taxpayer was liable, could not have been made under protest, but with complete voluntariness. In any case, a taxpayer should not be held to suffer lose by his good intention to comply with what he believes is his legal obligation, where such obligation does not really exist.

3. **CIVIL LAW; OBLIGATIONS AND CONTRACTS; *SOLUTIO INDEBITI*; WHEN APPLICABLE.**— The fact that a taxpayer paid through error or mistake, and the government accepted the payment gave rise to the application of the principle of *solutio indebiti* under Article 2154 of the New Civil Code, which provides that "if something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises." The quasi-contract of *solutio indebiti* is one of the concrete manifestations of the ancient

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principle that no one shall enrich unjustly at the expense of another. Hence, it would be unedifying for the government, that knowing that it has no right to all to collect or receive money for alleged taxes paid by mistake, it would be reluctant to return the same.

4. ID.; ID.; ID.; PRESCRIPTION IN CASE OF TAX REFUND. — *Solutio indebiti* is a quasi-contract, and payment of taxes by mistake being in the nature of *solutio indebiti,* the claim for *refund commences within six years from date of payment* pursuant to Article 1145(2) of the New Civil Code. Section 359 of the Revised Manual of Instructions to Treasurers requiring claim for refund to be filed within 2 years applies to taxes paid under ordinance subsequently declared illegal or taxes illegally assessed and collected under such ordinance, but not to payments of real estate taxes mistakenly made.

5. STATUTORY CONSTRUCTION; STATUTES; MANUAL OF INSTRUCTIONS CANNOT PREVAIL OVER PROVISIONS OF STATUTE. — The Revised Manual of Instructions to Treasurers, being mere compilation or existing accounting instructions affecting the finance and administration of local government cannot prevail over the provisions of the New Civil Code.

APPEARANCES OF COUNSEL

Lichauco, Picazo & Agcaoili for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

DE CASTRO, *J.*:

This is an appeal by way of *certiorari* from the decision of the Auditor General contained in his 9th indorsement dated January 14, 1970 and his resolution dated July 28, 1970 reiterating the aforesaid decision, disallowing the claim of petitioner for refund of real estate taxes.

The undisputed facts of the case are as follows:

Petitioner Ramie Textiles, Inc., a domestic corporation, commenced its operation in 1959. During the first five (5) years

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of operation, it voluntarily paid the amount of ₱78,041.17 as real estate taxes on its plant machinery and equipment used by its general mill at Bagbagin, Valenzuela, Bulacan. Later, or on May 19, 1967 said petitioner realizing, that under Article 1, Section 3(f) of Commonwealth Act No. 470, otherwise known as the Assessment Law,[1] said machineries are exempt from realty tax, submitted to the Provincial Treasurer, through the Provincial Assessor of Bulacan a claim for refund of ₱78,041.17 which it paid as real estate taxes for the said five (5) years on its plant machinery and equipment. On July 11, 1967 the Provincial Treasurer, however, denied the claim for refund on the ground that under Section 359 of the Revised Manual of Instructions to Treasurers, a claim for refund of taxes erroneously paid or illegally collected or assessed should be presented within two (2) years from date of payment. Petitioner submitted a reply on August 1, 1967 to the said opinion of the Provincial Treasurer alleging that Section 359 is inapplicable because said provision refers specifically to municipal ordinances which were subsequently declared illegal and taxes illegally assessed and collected under such ordinances. It is neither a tax collected through the municipal ordinance nor a tax illegally assessed and collected but real estate taxes voluntarily paid by petitioner.

On November 10, 1967, the Office of the Auditor General of Bulacan indorsed petitioner's claim to the Auditor General at Quezon City with the information that the former concurs with the opinion of the Provincial Treasurer and the Provincial Assessor of Bulacan that the claim for refund may not be in order considering that the payment of real estate taxes was

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[1] Article 1, Section 3(f) of Commonwealth Act No. 470 provides:

Section 3. Property exempt from tax. —

The exemptions shall be as follows:

x x x x x x x x x

(f) Machinery, which term shall embrace machines, mechanical contrivances, instruments, appliances, and apparatus attached to the real estate, used for industrial, agricultural or manufacturing purposes, during the first five (5) years of operation of the machinery.

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made voluntarily by petitioner without protest. But since the amount involved is very significant, the matter was submitted to the Central Office for decision and/or instruction.

The matter also appeared to have been referred to the Secretary of Finance for comment, and in his indorsement dated July 22, 1969 to the Auditor General, the Secretary stated he had no objection to the grant of the claim for refund of petitioner whether or not such payments have been made under protest, subject to the application of the statutory prescriptive period of six (6) years under Article 1145 of the New Civil Code of the Philippines.

The Auditor General in his 9th indorsement dated January 14, 1970, ruled that the claim for refund of real estate taxes paid by petitioner having been voluntarily made without protest may not be allowed pursuant to Section 54 of Commonwealth Act No. 470 which provides:

"Section 54. — Restriction upon power of court to impeach tax. — No court shall entertain any suit assailing the validity of a tax assessed under this Act until the taxpayer shall have paid, under protest, the taxes assessed against him, x x x."

The question at issue, therefore, is whether or not protest is a condition precedent or a *sine qua non* requirement for the recovery of real estate taxes paid under the erroneous belief that the claimant was liable therefor, and if so, what is the prescriptive period.

Petitioner claims that protest is not a *sine qua non* requirement in order that taxes mistakenly paid may be refunded. It alleges that Section 54 is not applicable since it contemplates a situation where the taxpayer disagrees with an assessment because it is illegal or erroneous.

We agree with petitioner. Protest is not a requirement in order that a taxpayer who paid under a mistaken belief that it is required by law, may claim for a refund. Section 54 of Commonwealth Act No. 470 does not apply to petitioner which could conceivably not have been expected to protest a payment it honestly believed to be due. The same refers only to the

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case where the taxpayer, despite his knowledge of the erroneous or illegal assessment, still pays and fails to make the proper protest, for in such case, he should manifest an unwillingness to pay, and failing so, the taxpayer is deemed to have waived his right to claim a refund.

In the case at bar, petitioner, therefore, cannot be said to have waived his right. He had no knowledge of the fact that it was exempted from payment of the realty tax under Commonwealth Act No. 470. Payment was made through error or mistake, in the honest belief that petitioner was liable, and therefore could not have been made under protest, but with complete voluntariness. In any case, a taxpayer should not be held to suffer loss by his good intention to comply with what he believes is his legal obligation, where such obligation does not really exist.

The case of *National Waterworks and Sewerage Authority vs. Quezon City, et al.*, G.R. No. L-25310, April 26, 1968, 23 SCRA 286-291, to the effect that prior protest of realty tax payments is necessary for recovery, cited by respondent, is not in point. The facts of said case are different because there was already prior knowledge on the part of NWSA of its exemption from payment of its taxes which dated back to 1957 when it paid under protest, and then again in 1961. But despite the fact that it knew already that it was exempt, it still paid without protest the taxes for 1958, 1959, 1960 and 1962. Hence, this Court ruled:

"Stated otherwise, this appeal concerns only the taxes paid for 1958 to 1962 (total amount; ₱449,088.46). Starting from 1957 up to 1962, NWSA already knew it was exempt, as shown by its payment in 1957 under protest, reiterated in 1961. NWSA therefore, should have paid the rest of the taxes from 1957 to 1962 under protest x x x."

It is not disputed that petitioner is exempt from the payment of realty taxes during the first five (5) years of its operation. The fact that petitioner paid thru error or mistake, and the government accepted the payment, gave rise to the application of the principle of *solutio indebiti* under Article 2154 of the New Civil Code, which provides that "if something is received

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when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises." There is, therefore, created a tie or juridical relation in the nature of *solutio indebiti,* expressly classified as quasi-contract under Section 2, Chapter I of Title XVII of the New Civil Code.

The quasi-contract of *solutio indebiti,* is one of the concrete manifestations of the ancient principle that no one shall enrich himself unjustly at the expense of another.[2] Hence, it would seem unedifying for the government, that knowing it has no right at all to collect or to receive money for alleged taxes paid by mistake, it would be reluctant to return the same.[3]

Solutio indebiti is a quasi-contract, and the instant case being in the nature of *solutio indebiti*, the claim for refund must be commenced within six (6) years from date of payment pursuant to Article 1145(2) of the New Civil Code.[4]

Respondent's contention that petitioner's right to recover real estate taxes has prescribed in accordance with Section 359 of the Revised Manual of Instructions to Treasurers which reads:

"Section 359. — Refund of taxes paid under ordinance subsequently declared illegal and taxes illegally assessed and collected. — To encourage prompt and voluntary payment of taxes and to maintain the principle that the government should not, at the expense of the taxpayer, retain what is not legally due it, claims for refund of taxes erroneously paid or illegally collected or assessed may be presented within two (2) years from date of payment. Claim for refund presented thereafter will no longer be entertained. All claims for recovery of taxes illegally and erroneously assessed shall be filed with the treasurer who collected the tax. The treasurer may himself decide the protest or he may forward the same to the corresponding authority for

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[2] *Velez vs. Balzarza, et al.,* 73 Phil. 630.

[3] *Gonzalo Puyat & Sons, Inc. vs. City of Manila,* 7 SCRA 970.

[4] Article 1145. The following actions must be commenced within 6 years:

1. x x x
2. Upon a quasi-contract.

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decision. His comment and recommendation shall be stated by him together with the protest. This procedure shall be strictly followed in order to determine as to whether or not a formal or written claim was filed within the two (2) years from date of payment."

is without merit. The said provision applies to taxes paid under ordinance subsequently declared illegal or taxes illegally assessed and collected under such ordinance, but not to payments of real estate taxes mistakenly made, as in the present case. Furthermore, the Revised Manual of Instructions to Treasurers is a mere compilation of existing accounting instructions affecting the finance and administration of local government. Section 359, particularly, has no force and effect of a law, and the same can not prevail over the provisions of the New Civil Code.

Equally not applicable is Section 17 of Commonwealth Act No. 470 cited by respondent in relation to the right of a property owner to contest the validity of assessment. Said provision provides:

"Section 17. Appeal by owner to the Board of Tax Appeals (Now Board of Assessment Appeals, R.A. No. 1125). Any owner who is not satisfied with the action of a provincial assessor in the assessment of his property may, within sixty (60) days from the date of receipt by him of the written notice of assessment as provided in Section 16 hereof, appeal to the Board of Tax Appeals, which is created in each province, by filing with it or with the municipal Treasurer of the municipality where the property assessed is situated who is duty bound to transmit it to the Board of Tax Appeals, a petitioner to that effect stating the grounds of his appeal."

Petitioner is not unsatisfied in the assessment of its property. Assessment having been made, it paid the real estate taxes without knowing that it is exempt.

It appears from the records that petitioner has paid the following real estate taxes from 1959 to 1963.[5]

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[5] *Rollo*, pp. 12, 40.

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Date Paid	*Official Receipt No.*	*Amount Paid*	*For the Year*
July 24, 1959	1636654	₱2,620.59	1959
Feb. 29, 1960	3746474	6,551.48	1960
Mar. 27, 1961	5095410	7,861.77	1961
Oct. 31, 1961	7589684	5,241.18	1961
May 8, 1963	9707021	26,415.55	1962
June 11, 1965	9054471	17,610.36	1963
Sept. 9, 1965	9055551	11,740.24	1963
	Total	₱78,041.17	

As already stated, the claim for refund must be made within six (6) years from date of payment. Since petitioner demanded the refund of real estate taxes mistakenly paid only on May 23, 1967, it can recover only those paid during the period from October 31, 1961 to September 9, 1965 or a total amount of ₱61,007.33. Petitioner has, by reason of the six (6) years prescriptive period, lost its right to recover the amount of ₱17,033.84 paid during the period from July 24, 1959 to March 27, 1961.

IN VIEW OF THE FOREGOING, the appealed judgment is hereby set aside, and petitioner Ramie Textiles, Inc. is allowed to recover the real estate taxes paid during the period from October 31, 1961 to September 9, 1965, in the total amount of ₱61,007.33. No costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio Herrera, JJ.*, concur.