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against Willy Bagatan, and the members of the family of their deceased victim, were being threatened by Bagatan and his co-accused, was not mentioned at all in the motion to cancel bail as a supporting ground, and that, as a matter of fact, the private prosecutor himself, Atty. Tolentino, admitted that he was not aware of any threat against the prosecution witnesses; (3) that there is no evidence sufficiently showing undue familiarity between the respondent judge and the accused Bagatan; (4) that, in connection with the alleged grave error and serious misconduct committed by the respondent judge in calling Criminal Case No. 1642 for trial even before resolving the motion for the cancellation of the bail bond mentioned heretofore, the respondent committed no such error or misconduct and that, as a matter of fact, had respondent delayed the arraignment and trial of the case, he could have been rightly charged with favoring the defendants by the consequent delay.

On the basis of the findings made, as summarized above, Justice Muñoz Palma recommends that the complaint against the respondent judge be dismissed.

After a careful review of the record, We entirely agree with the findings and recommendation mentioned above.

WHEREFORE, the present administrative case against the respondent, the Honorable Erlito L. Echiverri, is hereby dismissed.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee and *Barredo, JJ.*, concur.

[G.R. No. L-19842. December 26, 1969]

REPUBLIC OF THE PHILIPPINES, plaintiff-appellee, *vs.* CENTRAL AZUCARERA DEL DANAO, defendant-appellant.

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SYLLABUS

1. CONSTITUTIONAL LAW; POLICE POWER; LEVY FOR PHILSUGIN FUND; EXERCISE OF POLICE POWER.— A levy of "ten centavos (10) per picul of sugar" authorized under Section 15 of R.A. 632, to be collected by the PHILSUGIN from sugar cane planters and sugar centrals, the proceeds of which shall constitute the "Sugar Research and Stabilization Fund" is not so much an exercise of the power of taxation, nor the imposition of a special assessment, but the exercise of the police power of the state for the general welfare of the entire country.

2. ID.; ID.; ID.; REMEDY AGAINST UNAUTHORIZED SPENDING OF SAID FUND.— The remedy of the contributors to the Philsugin Fund the moment PHILSUGIN indulges in unauthorized ventures or projects is to raise the illegality thereof in appropriate proceedings, either administrative or judicial so that the same may be enjoined or annulled and those responsible therefor may be properly called to account for certainly.

APPEARANCES OF COUNSEL

Solicitor General Arturo A. Alafriz, Assistant Solicitor General Antonio P. Torres and *Solicitor Jorge R. Coquia* for plaintiff-appellee.

Ramon de los Reyes for defendant-appellant.

DECISION

BARREDO, *J.*:

Appeal by Central Azucarera del Danao from the decision of the Court of First Instance of Manila in its Civil Case No. 38624, Republic of the Philippines *vs.* Central Azucarera del Danao sentencing herein appellant as follows:

"FOR THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment sentencing:

". . . . . .

"And the Defendant in Civil Case No. 38624 to pay the plaintiff ₱48,059.77, with 6% interest thereon from the date of filing of the complaint to the date of payment.

"Defendants' counterclaims in all these four cases are hereby dismissed." (Pp. 25-26, Rec. on App.)

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Actually, there were four cases decided by the trial court in a single decision because they were consolidated, since they involved identical issues. The three other cases were jointly appealed to this Court and have already been decided.[1]

No new issues are raised in this separate appeal. The following facts found by the court *a quo* in its joint decision are undisputed:

". . . during the five crop years mentioned in the law, namely, 1951-1952, 1952-1953, 1953-1954, 1954-1955 and 1955-1956, defendant Bacolod-Murcia Milling Co., Inc., has paid ₱267,468.00 but left an unpaid balance of ₱216,070.50; defendant Ma-ao Sugar Central Co., Inc., has paid ₱177,613.44 but left an unpaid balance of ₱235,800.20; defendant Talisay-Silay Milling Company has paid ₱251,812.43 but left an unpaid balance of ₱208,193.74; and defendant Central Azucarera del Danao made a payment of ₱48,879.73 but left an unpaid balance of ₱48,059.77. There is no question regarding the correctness of the amounts paid and the amounts that remain unpaid.

"From the evidence presented, on which there is no controversy, it was disclosed that on September 3, 1951, the Philippine Sugar Institute, known as the PHILSUGIN for short, acquired the Insular Sugar Refinery for a total consideration of ₱3,070,909.60 payable, in accordance with the deed of sale Exhibit A, in 5 installments from the proceeds of the sugar tax to be collected under Republic Act 632. The evidence further discloses that the operation of the Insular Sugar Refinery for the years 1954, 1955, 1956 and 1957 was disastrous in the sense that PHILSUGIN incurred tremendous losses as shown by an examination of the statements of income and expenses marked Exhibits 5, 6, 7 and 8. Through the testimony of Mr. Cenon Flor Cruz, former acting general manager of PHILSUGIN and at present technical consultant of said entity, presented by the defendants as witness, it has been shown that the operation of the Insular Refinery has consumed 70% of the thinking time and effort of the PHILSUGIN management. . . .."

The sole issue before Us now is the same as that in the other three cases already decided, which is:

"Contending that the purchase of the Insular Sugar Refinery with money from the Philsugin Fund was not authorized by Rep. Act 632 and that the continued operation of the said refinery was inimical to their interests, the

[1] Rep. of the Phil. *vs.* Bacolod-Murcia Milling Co., Inc., G. R. No. L-19824; Rep. *vs.* Ma-ao Sugar Central Co., Inc., G. R. No. L-19825 and Rep. *vs.* Talisay-Silay Milling Co., G. R. No. L-19826, July 9, 1966.

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appellants refused to continue with their contributions to the said fund. They maintained that their obligation to contribute or pay to the said Fund subsists only to the limit and extent that they are benefited by such contributions since Rep. Act 632 is not a revenue measure but an Act which establishes a 'special assessment.' Adverting to the finding of the lower court that proceeds of the said Fund had been used or applied to absorb the "tremendous losses" incurred by Philsugin in its "disastrous operation" of the said refinery, the appellants herein argue that they should not only be released from their obligation to pay the said assessment but be refunded, besides, of all that they might have previously paid thereunder.

"The appellants' thesis is simply to the effect that the '10 centavos per picul of sugar' authorized to be collected under Sec. 15 of Republic Act 632 is a special assessment. As such, the proceeds thereof may be devoted only to the specific purpose for which the assessment was authorized, a special assessment being a levy upon property predicated on the doctrine that the property against which it is levied derives some special benefit from the improvement. It is not a tax measure intended to raise revenues for the Government. Consequently, once it has been determined that no benefit accrues or inures to the property owners paying the assessment, or that the proceeds from the said assessment are being misapplied to the prejudice of those against whom it has been levied, then the authority to insist on the payment of the said assessment ceases."

Accordingly, We reiterate:

"The nature of a 'special assessment' similar to the case at bar has already been discussed and explained by this Court in the case of Lutz *v.* Araneta, 98 Phil. 148. For in this Lutz case, Commonwealth Act 567, otherwise known as the Sugar Adjustment Act, levies on owners or persons in control of lands devoted to the cultivation of sugar cane and ceded to others for a consideration, on lease or otherwise—

> " 'a tax equivalent to the difference between the money value of the rental or consideration collected and the amount representing 12 per centum of the assessed value of such land. (Sec. 3).' "

Under Section 6 of the said law, Commonwealth Act 567, all collections made thereunder 'shall accrue to a special fund in the Philippine Treasury, to be known as the "Sugar Adjustment and Stabilization Fund," and shall be paid out only for any or all of the foregoing purposes or to attain any or all of the following objectives, as may be provided by law.' It then proceeds to enumerate the said purposes, among which are 'to place the sugar industry in a position to maintain itself; . . . to readjust the benefits derived from the sugar industry . . . so that all might continue profitably

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to engage therein; to limit the production of sugar to areas more economically suited to the production thereof; and to afford labor employed in the industry a living wage and to improve their living and working conditions.'

"The plaintiff in the above case, Walter Lutz, contended that the aforementioned tax or special assessment was unconstitutional because it was being 'levied for the aid and support of the sugar industry exclusively,' and therefore, not for a public purpose. In rejecting the theory advanced by the said plaintiff, this Court said:

" 'The basic defect in the plaintiff's position in his assumption that the tax provided for in Commonwealth Act 567 is a pure exercise of the taxing power. Analysis of the Act, and particularly Section 6, will show that the tax is levied with a regulatory purpose, to provide means for the rehabilitation and stabilization of the threatened sugar industry. *In other words, the Act is primarily an exercise of the police power.*

" 'This Court can take judicial notice of the fact that sugar production is one of the great industries of our nation, sugar occupying a leading position among its export products; that it gives employment to thousands of laborers in fields and factories; that it is a great source of the state's wealth, is one of the important sources of foreign exchange needed by our government, and is thus pivotal in the plans of a regime committed to a policy of currency stability. Its promotion, protection and advancement, therefore redounds greatly to the general welfare. Hence it was competent for the legislature to find that the general welfare demanded that the sugar industry should be stabilized in turn; and in the wide field of its police power, the law-making body could provide that the distribution of benefits therefrom be readjusted among its components to enable it to resist the added strain of the increase in taxes that it had to sustain (Sligh *v.* Kirkwood, 237 U. S. 52, 59 L. Ed. 835; Johnson *v.* State ex rel. Marey, 99 Fla. 1311, 128 So. 853; Maxcy Inc. *v.* Mayo, 103 Fla. 552, 139 So. 121).

" 'As stated in Johnson *v.* State ex rel, Marey, with reference to the citrus industry in Florida—

'The protection of a large industry constituting one of the great source of the state's wealth and therefore directly or indirectly affecting the welfare of so great a portion of the population of the State is affected to such an extent by public interests as to be within the police power of the sovereign.' (128 So. 837).

" 'Once it is conceded, as it must be that the protection and promotion of the sugar industry is a matter of public concern, it follows that the

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Legislature may determine within reasonable bounds what is necessary for its protection and expedient for its promotion. Here, the legislative discretion must be allowed full play, subject only to the test of reasonableness; and it is not contended that the means provided in Section 6 of the law (above quoted) bear no relation to the objective pursued or are oppressive in character. If objective and methods are alike constitutionally valid, no reason is seen why the state may not levy taxes to raise funds for their prosecution and attainment. Taxation may be made the implement of the state's police power. (Great Atl. & Pac. Tea Co. *v.* Grosjean, 301 U.S. 412, 81 L. ed. 1193; U.S. *v.* Butler, 297 U.S. 1, 80 L. ed. 477; M'cullock *v.* Maryland, 4 Wheat, 316, 4 L. ed. 579).'

"On the authority of the above case, then, We hold that the special assessment at bar may be considered similarly as the above, that is, that the levy for the Philsugin Fund is not so much an exercise of the power of taxation, nor the imposition of a special assessment, but the exercise of the police power for the general welfare of the entire country. It is, therefore, an exercise of a sovereign power which no private citizen may lawfully resist.

"Besides, under Section 2(a) of the charter, the Philsugin is authorized 'to conduct research work for the sugar industry in all its phases, either agricultural or industrial, for the purpose of introducing into the sugar industry such practices or processes that will reduce the cost of production, . . ., and achieve greater efficiency in the industry.' This provision, first of all, more than justifies the acquisition of the refinery in question. Who can dispute that the operation of a sugar refinery is a phase of sugar production and that from such operation may be learned methods of reducing the cost of sugar manufacture no less than it may afford the opportunity to discover the more effective means of achieving progress in the industry? Philsugin's experience alone of running a refinery is a gain to the entire industry. That the operation resulted in a financial loss is by no means an index that the industry did not profit therefrom, as other gains of a different nature may have been realized. Thus, from its financially unsuccessful venture, the Philsugin could very well have advanced in its appreciation of the problems of management faced by sugar centrals. It could have understood more clearly the difficulties of marketing sugar products. It could have known with better intimacy the precise area of the industry in need of the most help from the government. The view of the appellants herein, therefore, that they were not benefited by the unsuccessful operation of the refinery in question is not entirely accurate.

"Furthermore, Section 2(a) specifies a field of research which, indeed, would be difficult to carry out save through the actual operation of a refinery.

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Quite obviously, the most practical or realistic approach to the problem of what 'practices or processes' might most effectively cut the cost of production is to experiment on production itself. And yet, how can such an experiment be carried out without the tools, which is all that a refinery is?''

Moreover, even if it were assumed that the acquisition of a refinery is not contemplated in Rep. Act 632 as within the objectives and powers of the Philsugin, there is no denying the fact that not all the money in the Sugar Research and Stabilization Fund created by the law from the levy on the appellant and the other sugar centrals and planters is involved in such purchase. Indisputably, the Philsugin is using the rest of the said fund for purposes which cannot be questioned. Such being the case, the obligation of appellant to pay the tax in question is clear. The idea of proportioning the amount it will pay according to its own computation of how much of the above Fund is being devoted to what it deems to be legitimate ends only cannot be sanctioned, if for no other reason than that such a manner of payment will unduly hamper the proper programming and budgeting of the said Fund by the Philsugin even for its unquestionably authorized projects, thereby reducing its efficacy and defeating the purpose for which it has been established. The remedy that suggests itself the moment Philsugin indulges in unauthorized ventures or projects is to raise the illegality thereof in appropriate proceedings, either administrative or judicial, so that the same may be enjoined or annulled and those responsible therefor may be properly called to account, but, certainly, not by refusing to pay the levy fixed by law.

As in the three other cases already referred to, the judgment of the trial court in this case is affirmed, with costs against appellant.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Ruiz Castro and *Teehankee, JJ.,* concur.

Makalintal and *Fernando, JJ.,* did not take part.