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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

[G.R. No. L-35726 . July 21, 1982]

SOCIAL SECURITY SYSTEM, petitioner, *vs.* CITY OF BACOLOD and MIGUEL REYNALDO as City Treasurer of Bacolod City, respondents.

SYNOPSIS

For petitioner Social Security System's (SSS) failure to pay realty taxes for 3 years on the lands and buildings used in pursuance of its operations, respondent City of Bacolod levied upon said properties and thereafter declared them forfeited in its favor. Petitioner in a letter addressed to the city Mayor, sought reconsideration of the forfeiture proceedings on the ground that petitioner, being a government-owned and controlled corporation, is exempt from payment of real estate taxes. When no action was taken thereon, petitioner filed an action in the Court of First Instance for nullification of the forfeiture proceedings. After due hearing, the lower court rendered a decision declaring the properties of the Social Security System not exempt from the payment of realty taxes since the SSS does not fall under the provisions of Section 29 of the Charter of the City of Bacolod and there is no law exempting said entity from taxes. Hence this petition.

The Supreme Court held that under Section 29 of the Charter of the City of Bacolod, lands and buildings owned by the Republic of the Philippines, regardless of whether such property is devoted to governmental or proprietary purpose is exempt from payment of real estate taxes; and that Presidential Decree No. 24, which amended the Social Security Act of 1954, has removed all doubts as to the exemption of the SSS from taxation by explicitly providing for such exemption.

SYLLABUS

1. CONSTITUTIONAL LAW; TAXATION; CHARTER OF BACOLOD CITY; GOVERNMENT LANDS AND BUILDINGS ARE EXEMPT FROM REAL ESTATE TAX.— The subject of inquiry in the case at bar is not whether a government corporation exercising ministrant or proprietary function, such as petitioner Social Security System, is exempt from the payment of legal fees, but whether the properties in question, which are concededly owned by the government, are exempt from realty taxes. We hold that under Section 29 of the Charter of the City of Bacolod, they are so exempt. It bears emphasis

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that the said section does not contain any qualification whatsoever in providing for the exemption from real estate taxes of "lands and buildings owned by the Commonwealth or Republic of the Philippines." Hence, when the legislature exempted lands and buildings owned by the government from payment of said taxes, what it intended was a broad and comprehensive application of such mandate, regardless of whether such property is devoted to governmental or proprietary purpose.

2. ID.; ID.; PRESIDENTIAL DECREE NO. 24 EXEMPTS SOCIAL SECURITY SYSTEM FROM TAXATION.— Presidential Decree No. 24, which amended the Social Security Act of 1954, has already removed all doubts as to the exemption of the SSS from taxation.

AQUINO, *J., concurring*:

TAXATION; REAL PROPERTY TAX CODE; EXEMTPION PROVIDED IN P.D. NO. 24.— I concur because the Social Security System, which is controlled and directed by a Social Security Commission headed by the Minister of Labor and Employment and six members appointed by the President of the Philippines, and which is an agency of the Republic of the Philippines, providing for sickness, unemployment, retirement, disability and death benefits for employees, is indubitably a part of the Government of the Republic and, therefore, it is clearly exempted from realty tax under the Assessment Law and the Real Property Tax Code. That exemption is clearly provided for in Presidential Decree No. 24, amending Section 16 of the Social Security Law.

APPEARANCES OF COUNSEL

Filemon Q. Almazan and *Perlita J. Tria Tirona* for petitioner.
Catalino A. Dayon for respondents.

DECISION

ESCOLIN, *J.*:

We set aside the decision of the Court of First Instance of Negros Occidental in Civil Case No. 5980, entitled "Social Security System *versus* City of Bacolod and Miguel Reynaldo, as City Treasurer of Bacolod City," which sustained the forfeiture of certain real properties of the Social Security System in favor

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of the City of Bacolod for delinquency in payment of real estate taxes.

Petitioner Social Security System is a government agency created under Republic Act No. 1161, whose primary function is to "develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people throughout the Philippines, and shall provide protection against the hazards of disability, sickness, old age, and death." [1]

In pursuance of its operations, petitioner maintains a number of regional offices, one of which is the five-storey building, known as SSS Building in Bacolod City, occupying four parcels of land. In 1970, said lands and building were assessed for taxation at ₱1,744,840.00.

For petitioner's failure to pay the realty taxes for the years 1968, 1969 and 1970 which, including penalties, amounted to ₱104,956.06, respondent city sometime in early 1970 levied upon said lands and building; and on April 3, 1970, it declared said properties forfeited in its favor.

In protest thereto, petitioner addressed a letter dated July 27, 1970 to the City Mayor of Bacolod, through respondent city treasurer, seeking reconsideration of the forfeiture proceedings on the ground that petitioner, being a government-owned and controlled corporation, is exempt from payment of real estate taxes.

When no action thereon was taken by respondent city treasurer, petitioner filed an action in the Court of First Instance of Negros Occidental for nullification of the forfeiture proceedings. In the same complaint it sought the issuance of a writ of preliminary injunction to restrain respondent city from consolidating its ownership over the forfeited properties, and this writ was issued by the court upon petitioner's posting of a cash bond in the amount of ₱105,000.00.

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[1] Section 2, Republic Act No. 1161.

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After due hearing, the lower court rendered a decision declaring—

". . . the properties of the Social Security System not exempt from the payment of real property tax inasmuch as the SSS does not fall under the provisions of Section 29 of the Charter of the City of Bacolod, and considering further that there is no law which exempts said entity from taxes, the same should therefore be subject to taxation like any other corporation in accordance with Section 27 of the City Charter of Bacolod City. The complaint is hereby dismissed with costs against the plaintiff."

Hence, this petition.

We find the petition meritorious. Section 29 of Commonwealth Act No. 326, otherwise known as the Charter of the City of Bacolod, provides as follows:

"SECTION 29. Exemption from taxation.— Lands and buildings owned by the United States of America, the Commonwealth of the Philippines, the City of Bacolod, the Province of Occidental Negros, and cemeteries, churches and their adjacent parsonages and convents, and lands, buildings and improvements used exclusively for religious, charitable, scientific or educational purposes, and not for profit, shall be exempt from taxation; but such exemptions shall not extend to lands or buildings held for investment, though the income therefrom be devoted to religious, charitable, scientific or educational purposes."

The court *a quo* restricted the scope of the exemption contemplated by the above section exclusively to those government agencies, entities and instrumentalities exercising governmental or sovereign functions. It relied on the ruling laid down in "NACOCO *versus* Bacani, et al." [2] to the effect that the National Coconut Corporation, a government agency performing mere ministrant functions, is not included in the term "Government of the Republic of the Philippines" for purposes of exemption from the legal fees provided for in Rule 130 of the Rules of Court.[3] Invoking the case of "SSS *versus* Hon.

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[2] 100 Phil. 468.

[3] Now Section 8, Rule 141, New Rules of Court, referring to fees for transcript of stenographic notes taken in judicial proceedings.

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Soriano, et al." [4] where this Court definitively categorized the SSS as a government agency performing proprietary functions, the trial court concluded that petitioner SSS does not fall within the coverage of Section 29 of the Charter of Bacolod City.

There can be no question that a government owned or controlled corporation is subject to payment of the legal fees provided for in Rule 130 of the Rules of Court. Such liability is plainly written in Section 1 of Republic Act No. 104, which reads:

". . . All corporations, agencies or instrumentalities owned or controlled by the government shall pay such duties, taxes, fees and other charges upon their transaction, business, industry, sale, or income as are imposed by law upon individuals, associations or corporations engaged in any taxable business, industry, or activity except on goods or commodities imported or purchased and sold or distributed for relief purposes as may be determined by President of the Philippines."

However, the subject of inquiry in the case at bar is not whether a government corporation exercising ministrant or proprietary function, such as petitioner SSS, is exempt from the payment of legal fees, but whether the properties in question, which are concededly owned by the government, are exempt from realty taxes. We hold that under Section 29 of the Charter of the City of Bacolod, they are so exempt.

It bears emphasis that the said section does not contain any qualification whatsoever in providing for the exemption from real estate taxes of "lands and buildings owned by the Commonwealth or Republic of the Philippines." Hence, when the legislature exempted lands and buildings owned by the government from payment of said taxes, what it intended was a broad and comprehensive application of such mandate, regardless of whether such property is devoted to governmental or proprietary purpose.

This conclusion is ineluctable from an examination of Commonwealth Act No. 470, a statute which deals specifically

[4] 7 SCRA 1016.

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with the incidence of real estate taxes and the exemption thereto. It is to be noted that Section 3(a) of said statute contains a similarly worded exemption from the payment of realty taxes of "properties owned by . . . the Republic of the Philippines, any province, city, municipality or municipal district . . . ." And in "Board of Assessment Appeals *versus* Court of Tax Appeals"[5] this Court interpreted this provision in this wise:

". . . in exempting from taxation 'property owned by the Republic of the Philippines, any province, city, municipality or municipal district . . .' said Section 3 (a) of Republic Act No. 470 makes no distinction between property held in a sovereign, governmental or political capacity and those possessed in a private, proprietary or patrimonial character. And where the law does not distinguish neither may we, unless there are facts and circumstances clearly showing that the lawmaker intended the contrary, but no such facts and circumstances have been brought to our attention. Indeed, the noun 'property' and the verb 'owned' used in said Section 3 (a) strongly suggest that the object of exemption is considered more from the view point of dominion, than from that of domain. Moreover, taxes are financial burdens imposed for the purpose of raising revenues with which to defray the cost of the operation of the Government, and a tax on property of the Government, whether national or local, would merely have the effect of taking money from one pocket to put it in another pocket (Cooley on Taxation, Sec. 621, 4th Edition). Hence, it would not serve, in the final analysis, the main purpose of taxation. What is more, it would tend to defeat it, on account of the paper work, time and consequently, expenses it would entail. (The Law on Local Taxation, by Justiniano Y. Castillo, p. 13)."

The distinction laid down in "NACOCO *versus* Bacani"[6] between government agencies exercising constituent functions, on the one hand, and those performing ministrant functions, on the other, has therefore no relevance to the issue before Us. What is decisive is that the properties possessed by the SSS, albeit devoted to private or proprietary purpose, are in fact owned by the government of the Philippines. As such they are exempt from

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[5] 8 SCRA 225.

[6] *supra*. The 'constituent-ministrant' criterion of governmental functions applied in NACOCO *vs.* Bacani has been abandoned in Agricultural Credit and Cooperative Financing Administration *versus* Confederation of Unions in Government Corporation and Offices, et al. (30 SCRA 649, 666-667, 682-683).

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realty taxes. It is axiomatic that when public property is involved, exemption is the rule and taxation, the exception.

In connection with the issue at hand, it would not be amiss to state that Presidential Decree No. 24, which amended the Social Security Act of 1954, has already removed all doubts as to the exemption of the SSS from taxation. Thus—

"SEC. 16. *Exemption from tax, legal process, and lien.*— All laws to the contrary notwithstanding, the SSS and all its assets, all contributions collected and all accruals thereto and income therefrom as well as all benefit payments and all papers or documents which may be required in connection with the operation or execution of this Act shall be exempt from any tax, assessment, fee, charge or customs or import duty; and all benefit payments made by the SSS shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachment, garnishments, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the covered employee to the SSS."

WHEREFORE, the decision under review is hereby set aside, and the surety bond filed by petitioner cancelled.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Guerrero, Abad Santos and *De Castro, JJ.* concur.

Aquino, *J.*, I concur because the Social Security System, which is controlled and directed by a Social Security Commission headed by the Minister of Labor and Employment and six members appointed by the President of the Philippines, and which is an agency of the Republic of the Philippines, providing for sickness, unemployment, retirement, disability and death benefits for employees, is indubitably a part of the Government of the Republic and, therefore, it is clearly exempted from realty tax under the Assessment Law and the Real Property Tax Code.

That exemption is clearly provided for in Presidential Decree No. 24, amending Section 16 of the Social Security Law.

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The SSS is like the Government Service Insurance System (exempt from taxes under Section 33 of Presidential Decree No. 1146), the Civil Service Commission or any bureau of the Government. It is not in the category of government-owned or controlled corporation.

EN BANC

[G.R. No. 58289. July 24, 1982]

VALENTINO L. LEGASPI, petitioner, *vs.* THE HONORABLE MINISTER OF FINANCE and THE HONORABLE COMMISSIONER and/or THE BUREAU OF INTERNAL REVENUE, respondents.

SYNOPSIS

Hon. Valentino L. Legaspi, incumbent member of the Interim Batasang Pambansa, filed a petition praying that the Court declare PD 1840 "granting tax amnesty and filing of statement of assets and liabilities and some other purposes" unconstitutional. Petitioner alleged that since the legislative function is vested in the Batasang Pambansa, the President may grant amnesty only with the concurrence of the Batasan. He further alleged that Amendment No. 6 was not one of the powers granted the President by the Constitution as amended in the plebiscite of 1981 and that the respondents were implementing the questioned decree and the same tended to affect all taxpayers in the Philippines including herein petitioner and that the questioned decree being the first dated after the lifting of Martial Law and the April 7 amendment brought to test the validity of the exercise of standby emergency powers invoked in Amendment No. 6. The issue is whether the 1973 Constitution as amended by Plebiscite Referendum of 1976, retained the same amendments, more particularly Amendment No. 6, after it was again amended in the Plebiscite held on April 7, 1981.

The Supreme Court dismissed the petition and upheld the validity of PD 1840 on the ground that Amendment No. 6 of October 1976 of the Constitution of 1973 had not been in any way altered or modified much less repealed by the constitutional amendments of 1981.