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FIRST DIVISION

[G.R. No. L-23858. November 21, 1979]

SOUTHEAST ASIA MANUFACTURING CORPORATION, *petitioner*, *vs.* **THE MUNICIPAL COUNCIL OF TAGBILARAN, BOHOL; VENANCIO P. INTING, Mayor of the Municipality of Tagbilaran, Bohol, and ARTURO FORTICH, Municipal Treasurer of Tagbilaran, Bohol**, *respondents*.

SYLLABUS

ADMINISTRATIVE LAW; LOCAL TAX CODE; TAX ORDINANCE OF PROVINCES; DEEMED *IPSO FACTO* NULLIFIED ON JUNE 30, 1974; MOOT AND ACADEMIC.— The Local Autonomy Act, which was approved on June 19, 1959, and which was the statute governing the case at bar at its incipience, has been superseded by the Local Tax Code in so far as the taxing power of provinces, cities, and municipalities are concerned. Furthermore, by the express language of Section 64-A of the Local Tax Code "all existing tax ordinances of provinces, cities, municipalities and barrios shall be deemed *ipso facto* nullified on June 30, 1974." Plainly, the issue elevated in this appeal has become moot and academic. And where the issues have become moot and academic, there is no justiciable controversy, so that a declaration on the validity or invalidity of the Ordinance would be of no practical use or value. The case below having been instituted for a Declaratory judgment, and even on the basis of the pleadings themselves, there is no actual substantial relief to which petitioner-appellee would be entitled and which would be negated by the dismissal of this case.

APPEARANCES OF COUNSEL

Francisco G. Antonio for petitioner.

Solicitor General Arturo A. Alafriz, 1st Assistant Solicitor General Esmeraldo Umali and Solicitor Augusto M. Amores for respondents.

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DECISION

MELENCIO-HERRERA, *J.*:

On pure questions of law, this appeal by respondents is before us, seeking a reversal of the judgment rendered on December 14, 1963 by the Court of First Instance of Bohol in Civil Case No. 1548 for Declaratory Relief, which, sustaining the view of petitioner corporation, declared null and void and illegal sub-sections (c) and (d), Section 21, Article 49 of Municipal Ordinance No. 29, Series of 1962, enacted by the Municipal Council of Tagbilaran, Bohol.

The pertinent portions of that Ordinance, as amended, are reproduced hereunder:

ORDINANCE NO. 29

Series 1962

AN ORDINANCE AMENDING THE TAGBILARAN ORDINANCE CODE OF 1962

ARTICLE 49 — Business

Section 21: — Copra, Maguey and abaca:

		Permit Fees	License Quarterly	Fees Yearly
(a)	Dealer of	₱20.00	₱ 25.00	₱100.00
(b)	Exporter of	₱20.00	₱100.00	₱400.00
(c)	Storage of Copra for export ..... per metric ton			₱ 0.60
(d)	Storage for domestic trade ..... per 25 cubic meters of warehouse capacity per month			₱ 1.00

x x x x x x x x x

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Section 60. Storage fees on copra for direct export shall be due and payable to the Municipal Treasurer not later than ten (10) days after the discharge of the product from the warehouse. All other fees on copra shall be due and payable within the first ten (10) days of the succeeding month.

x x x x x x x x x

For failure to pay as herein provided, there shall be collected a surcharge of 20% of the amount in addition to the tax due to be compounded at the same rate every calendar month and imprisonment of from two (2) to ten (10) days shall be imposed in the discretion of the Court.

The controversy centers principally on sub-sections (c) and (d) providing for storage fees for copra. Petitioner — appellee maintains that under Section 2(i) of Republic Act No. 2264, or the Local Autonomy Act, respondent Municipality has no power to collect said taxes, and even if it does, the fees imposed are unduly oppressive, unjust, and excessive and, therefore, the aforestated sub-sections should be declared illegal. In its Amended Petition, petitioner further prayed:

"x x x x x x x x x

2. For the issuance of prohibitory injunction to suspend the further collection of the tax imposed by the said ordinances;

3. For the recovery of the amount paid under protest, the amount being paid only after the filing of the original petition."[1]

For their part, respondents-appellants contend that Section 2 of the Local Autonomy Act explicitly vests on municipalities the power "to levy for public purposes just and uniform taxes, licenses or fees"; that the prohibition in sub-paragraph (i) of Section 2 of the Local Autonomy Act refers only to customs dues, registration fees on wharfage owned by the national government, tonnage, and all other kinds of customs fees; that the storage fees mentioned in the Ordinance are merely license fees imposed by the Municipal Council of

[1] p. 12, Record on Appeal.

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Tagbilaran, Bohol, in the exercise of its regulative authority; that the amended Ordinance has been approved by the Provincial Board and the Secretary of Finance; and that the petition states no cause of action for its failure to allege that said storage fees on copra are being collected for the purpose of raising revenues. In the petitory portion of their Answer, respondents prayed for the dismissal of the Petition.[2]

The case having been submitted on the basis of pleadings and documentary evidence and no question of fact being involved, the trial Court, on December 14, 1963, promulgated its Decision "declaring null and void and illegal sub-sections (c) and (d), Section 21, Article 49 of Ordinance No. 29 (Exhibit "X")," on the theory that under Section 2 of the Local Autonomy Act, municipalities and municipal districts are not authorized to impose the storage fees sought to be collected by the aforestated sub-sections as they partake of the nature of "percentage taxes and taxes on specific articles."

Hence, this recourse by respondents-appellants.

It bears emphasizing at this juncture that this action is one for declaratory relief. The records do not disclose that petitioner is being held liable for any particular amount. What petitioner seeks in its Amended Petition, aside from the declaration of the nullity of the challenged Ordinance, is the recovery of the amount it paid under protest after the filing of the original Petition. However, there is no specific allegation of the sum involved nor any evidence of said amount. Besides, the main action here is one for declaratory relief and not for recovery of the tax paid, which matter could be threshed out in an ordinary suit.[3]

Section 2(i) of the Local Autonomy Act, the prevailing law at the time of this controversy, provides:

"Sec. 2. Taxation. — Any provision of law to the contrary notwithstanding, all chartered cities, municipalities and municipal

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[2] pp. 17-20, *Ibid.*

[3] *Shell Company of the Philippines, Ltd. vs. Municipality of Sipocot*, L-12680, March 20, 1959.

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districts shall have authority to impose municipal license taxes or fees upon persons engaged in any occupation or business, or exercising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, the municipal council of the municipality, or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: *Provided*, That municipalities and municipal districts shall, in no case, impose any percentage tax on sales or other taxes in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the National Internal Revenue Code; *Provided, however*, That no city, municipality or municipal district may levy or impose any of the following:

x x x x x x x x x

(i) Customs duties registration, wharfage on wharves owned by the national government, tonnage, and all other kinds of customs fees, charges and dues;

x x x x x x x x x"

It is unfortunate that this case has pended before this Court sine 1965 when it was deemed submitted for decision. As it is, "much water has passed under the bridge" with conditions having undergone drastic change, and laws superseded by other more recent ones.

The Local Autonomy Act (*supra*), which was approved on June 19, 1959, and which was the statute governing the case at bar at its incipience, has been superseded by the Local Tax Code[4] in so far as the taxing power of provinces, cities, and municipalities are concerned. Furthermore, by the express language of Section 64-A of the Local Tax Code[5] "all existing

[4] P.D. No. 231, as amended by P.D. No. 426.

[5] Added by Section 23 of P.D. No. 426.

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tax ordinances of provinces, cities, municipalities and barrios shall be deemed *ipso facto* nullified on June 30, 1974." Plainly, the issue elevated in this appeal has become moot and academic. And where the issues have become moot and academic, there is no justiciable controversy, so that a declaration on the validity or invalidity of the Ordinance would be of no practical use or value.[6] The case below having been instituted for a declaratory judgment, and even on the basis of the pleadings themselves, there is no actual substantial relief to which petitioner-appellee would be entitled and which would be negated by the dismissal of this case.

WHEREFORE, the appealed judgment is hereby set aside, and the action for declaratory relief hereby dismissed.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *De Castro, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-29349. November 21, 1979]

FRANKLIN BAKER COMPANY OF THE PHILIPPINES, *petitioner*, *vs.* **FLORENCIO DIAMANTE and WORKMEN'S COMPENSATION COMMISSION,** *respondents*.

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[6] *Sarmiento vs. Capapas*, 4 SCRA 816, 822 (1962).