Supreme Court E-Library

[G.R. No. L-26379. December 27, 1969]

WILLIAM C. REAGAN, etc., petitioner, *vs.* COMMISSIONER OF INTERNAL REVENUE, respondent.

SYLLABUS

1. CONSTITUTIONAL LAW; PHILIPPINES, A SOVEREIGN STATE; SCOPE OF AUTHORITY.— The Philippines being independent and sovereign, its authority may be exercised over its entire domain. There is no portion thereof that is beyond its power. Within its limits, its decrees are supreme, its commands paramount. Its laws govern therein, and everyone to whom it applies must submit to its terms. That is the extent of its jurisdiction, both territorial and personal. Necessarily, likewise, it has to be exclusive. If it were not thus, there is a diminution of its sovereignty.

2. ID.; ID.; AUTO-LIMITATION CONCEPT OF SOVEREIGNTY, EFFECT.— Any state may by its consent, express or implied, submit to a restriction of its sovereign rights. There may thus be a curtailment of what otherwise is a power plenary in character. That is the concept of sovereignty as auto-limitation, which, in the succinct language of Jellinek, "is the property of a state-force due to which it has the exclusive capacity of legal self-determination and self-restriction." A state then, if it chooses to, may refrain from the exercise of what otherwise is illimitable competence. Its laws may as to some person found within its territory no longer control. Nor does the matter end there. It is not precluded from allowing another power to participate in the exercise of jurisdictional right over certain portions of its territory. If it does so, it by no means follows that such areas become impressed with an alien character. They retain their status as native soil. They are still subject to its authority. Its jurisdiction may be diminished, but it does not disappear. So it is with the bases under lease to the American armed forces by virtue of the military bases agreement of 1947. They are not and cannot be foreign territory.

3. ID.; ID.; CLARK AIR FORCE BASE, NOT FOREIGN SOIL; SALE THEREIN SUBJECT TO TAX.— Petitioner was liable for the income tax arising from a sale of his car in the Clark Field Air Base, which clearly is and cannot otherwise be other than, within the territorial jurisdiction of the Philippines to tax. The Military Bases agreement does not lend support to the assertion that said base has become a foreign soil or territory.

Supreme Court E-Library

4. ID.; ID.; ID.; ID.; EXEMPTION CLAUSE IN MILITARY BASES AGREEMENT, NOT APPLICABLE.— Petitioner, at one time a civilian employee of an American Corporation providing technical assistance to the United States Air Force in the Philippines, would seek to impart plausibility to his claim of not being subject to tax for the sale of his car in the Clark Field Air Base, by the ostensible invocation of the exemption clause in the Military Bases Agreement by virtue of which a "national of the United States serving in or employed in the Philippines in connection with the construction, maintenance, operation or defense of the bases and residing in the Philippines only by reason of such employment" is not to be taxed on his income unless derived from the Philippine sources or sources other than the United States sources. The contention on its face is devoid of merit as the source in the instant case clearly was Philippines.

APPEARANCES OF COUNSEL

Quasha, Asperilla, Blanco, Zafra and Tayag for petitioner.

Solicitor General Antonio P. Barredo, Assistant Solicitor General Felicisimo R. Rosete, Solicitor Lolita O. Gal-lang and *Special Atty. Gamaliel H. Mantolino* for respondent.

DECISION

FERNANDO, *J.*:

A question novel in character, the answer to which has far-reaching implications, is raised by petitioner William C. Reagan, at one time a civilian employee of an American corporation providing technical assistance to the United States Air Force in the Philippines. He would dispute the payment of the income tax assessed on him by respondent Commissioner of Internal Revenue on an amount realized by him on a sale of his automobile to a member of the United States Marine Corps, the transaction having taken place at the Clark Field Air Base at Pampanga. It is his contention, seriously and earnestly pressed, that in legal contemplation the sale was made outside Philippine territory and therefore beyond our jurisdictional power to tax.

Such a plea, far-fetched and implausible, on its face betraying no kinship with reality, he would justify by invoking, mistakenly as will hereafter be more fully shown, an observation to that effect

Supreme Court E-Library

in a 1951 opinion,[1] petitioner ignoring that such utterance was made purely as a flourish of rhetoric and by way of emphasizing the decision reached, that the trading firm as purchaser of army goods must respond for the sales taxes due from an importer, as the American armed forces being exempt could not be taxed as such under the National Internal Revenue Code.[2] Such an assumption, inspired by the commendable aim to render unavailing any attempt at tax evasion on the part of such vendee, found expression anew in a 1962 decision,[3] coupled with the reminder however, to render the truth unmistakable, that "the areas covered by the United States Military Bases are not foreign territories both in the political and geographical sense."

As thus clarified, it is manifest that such a view amounts at most to a legal fiction and is moreover *obiter*. It certainly cannot control the resolution of the specific question that confronts us. We declare our stand in an unequivocal manner. The sale having taken place on what indisputably is Philippine territory, petitioner's liability for the income tax due as a result thereof was unavoidable. As the Court of Tax Appeals reached a similar conclusion, we sustain its decision now before us on appeal.

In the decision appealed from, the Court of Tax Appeals, after stating the nature of the case, started the recital of facts thus: "It appears that petitioner, a citizen of the United States and an employee of Bendix Radio, Division of Bendix Aviation Corporation, which provides technical assistance to the United States Air Force, was assigned at Clark Air Base, Philippines, on or about July 7, 1959 . . .. Nine (9) months thereafter and before his tour of duty expired, petitioner, imported on April 22, 1960 a tax-free 1960 Cadillac car with accessories valued at $6,443.83, including freight, insurance and other charges."[4]

---

[1] Saura Import and Export Co. *v.* Meer, 88 Phil. 199, 202 affirming Go Cheng Tee *v.* Meer, 87 Phil. 18 (1950).

[2] Sec. 186, National Internal Revenue Code.

[3] Co Po *v.* Collector of Internal Revenue, 5 SCRA 1057.

[4] Decision, Annex A, Brief for Petitioner-Appellant, pp. 20-21.

Supreme Court E-Library

Then came the following: "On July 11, 1960, more than two (2) months after the 1960 Cadillac car was imported into the Philippines, petitioner requested the Base Commander, Clark Air Base, for a permit to sell the car, which was granted provided that the sale was made to a member of the United States Armed Forces or a citizen of the United States employed in the U.S. military bases in the Philippines. On the same date, July 11, 1960, petitioner sold his car for $6,600.00 to a certain Willie Johnson, Jr. (Private first class), United States Marine Corps, Sangley Point, Cavite, Philippines, as shown by a Bill of Sale . . . executed at Clark Air Base. On the same date, Pfc. Willie (William) Johnson, Jr. sold the car to Fred Meneses for ₱32,000.00 as evidenced by a deed of sale executed in Manila."[5]

As a result of the transaction thus made, respondent Commissioner of Internal Revenue, after deducting the landed cost of the car as well as the personal exemption to which petitioner was entitled, fixed as his net taxable income arising from such transaction the amount of ₱17,912.34, rendering him liable for income tax in the sum of ₱2,979.00. After paying the sum, he sought a refund from respondent claiming that he was exempt, but pending action on his request for refund, he filed the case with the Court of Tax Appeals seeking recovery of the sum of ₱2,979.00 plus the legal rate of interest.

As noted in the appealed decision: "The only issue submitted for our resolution is whether or not the said income tax of ₱2,979.00 was legally collected by respondent from petitioner."[6] After discussing the legal issues raised, primarily the contention that the Clark Air Base "in legal contemplation, is a base outside the Philippines" the sale therefore having taken place on "foreign soil," the Court of Tax Appeals found nothing objectionable in the assessment and thereafter the payment of ₱2,979.00 as income tax and denied the refund of the same. Hence this appeal predicated on a legal theory we cannot accept. Petitioner cannot make out a case for reversal.

---

[5] *Ibid*, p. 21.

[6] *Ibid*, p. 23.

Supreme Court E-Library

1. Resort to fundamentals is unavoidable to place things in their proper perspective, petitioner apparently feeling justified in his refusal to defer to basic postulates of constitutional and international law, induced no doubt by the weight he would accord to the observation made by this Court in the two opinions earlier referred to. To repeat, scant comfort, if at all, is to be derived from such an *obiter* dictum, one which is likewise far from reflecting the fact as it is.

Nothing is better settled than that the Philippines being independent and sovereign, its authority may be exercised over its entire domain. There is no portion thereof that is beyond its power. Within its limits, its decrees are supreme, its commands paramount. Its laws govern therein, and everyone to whom it applies must submit to its terms. That is the extent of its jurisdiction, both territorial and personal. Necessarily, likewise, it has to be exclusive. If it were not thus, there is a diminution of its sovereignty.

It is to be admitted that any state may by its consent, express or implied, submit to a restriction of its sovereign rights. There may thus be a curtailment of what otherwise is a power plenary in character. That is the concept of sovereignty as auto-limitation, which, in the succinct language of Jellinek, "is the property of a state-force due to which it has the exclusive capacity of legal self-determination and self-restriction."[7] A state then, if it chooses to, may refrain from the exercise of what otherwise is illimitable competence.

Its laws may as to some persons found within its territory no longer control. Nor does the matter end there. It is not precluded from allowing another power to participate in the exercise of jurisdictional right over certain portions of its territory. If it does so, it by no means follows that such areas become impressed with an alien character. They retain their status as native soil. They are still subject to its authority. Its jurisdiction may be diminished, but it does not disappear. So it is with the bases under lease to

[7] Jellinek as quoted in Cohen, Recent Theories of Sovereignty, p. 35 (1937).

Supreme Court E-Library

the American armed forces by virtue of the military bases agreement of 1947. They are not and cannot be foreign territory.

Decisions coming from petitioner's native land, penned by jurists of repute, speak to that effect with impressive unanimity. We start with the citation from Chief Justice Marshall, announced in the leading case of Schooner Exchange *v.* M'Faddon,[8] an 1812 decision: "The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction." After which came this paragraph: "All exceptions, therefore, to the full and complete power of a nation within its own territories, must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

Chief Justice Taney, in an 1857 decision,[9] affirmed the fundamental principle of everyone within the territorial domain of a state being subject to its commands: "For undoubtedly every person who is found within the limits of a government, whether for temporary purposes or as a resident, is bound by its laws." It is no exaggeration then for Justice Brewer to stress that the United States government "is one having jurisdiction over every foot of soil within its territory, and acting directly upon each [individual found therein]; . . .."[10]

Not too long ago, there was a reiteration of such a view, this time from the pen of Justice Van Devanter. Thus: "It now is settled in the United States and recognized elsewhere that the territory subject to its jurisdiction includes the land areas under its dominion and control, the ports, harbors, bays, and other inclosed arms of the sea along its coast, and a marginal belt of

---

[8] 7 Cranch 116, 136.

[9] Brown *v.* Duchesne, 19 How. 183, 194.

[10] In re Debs. 158 US 564 (1894).

Supreme Court E-Library

the sea extending from the coast line outward a marine league, or 3 geographic miles."[11] He could cite moreover, in addition to many American decisions, such eminent treatise-writers as Kent, Moore, Hyde, Wilson, Westlake, Wheaton and Oppenheim.

As a matter of fact, the eminent commentator Hyde in his three-volume work on International Law, as interpreted and applied by the United States, made clear that not even the embassy premises of a foreign power are to be considered outside the territorial domain of the host state. Thus: "The ground occupied by an embassy is not in fact the territory of the foreign State to which the premises belong through possession or ownership. The lawfulness or unlawfulness of acts there committed is determined by the territorial sovereign. If an attache commits an offense within the precincts of an embassy, his immunity from prosecution is not because he has not violated the local law, but rather for the reason that the individual is exempt from prosecution. If a person not so exempt, or whose immunity is waived, similarly commits a crime therein, the territorial sovereign, if it secures custody of the offender, may subject him to prosecution, even though its criminal code normally does not contemplate the punishment of one who commits an offense outside of the national domain. It is not believed, therefore, that an Ambassador himself possesses the right to exercise jurisdiction, contrary to the will of the State of his sojourn, even within his embassy with respect to acts there committed. Nor is there apparent at the present time any tendency on the part of States to acquiesce in his exercise of it."[12]

2. In the light of the above, the first and crucial error imputed to the Court of Tax Appeals to the effect that it should have held that the Clark Air Force is foreign soil or territory for purposes of income tax legislation is clearly without support in law. As thus correctly viewed, petitioner's hope for the reversal of the

---

[11] Cunard Steamship Co. *v.* Mellon, 262 US 100, (1922)

[12] 2 Hyde, International Law Chiefly as Interpreted and Applied by the United States, pp. 1285-1286 (1947)

Supreme Court E-Library

decision completely fades away. There is nothing in the Military Bases Agreement that lends support to such an assertion. It has not become foreign soil or territory. This country's jurisdictional rights therein, certainly not excluding the power to tax, have been preserved. As to certain tax matters, an appropriate exemption was provided for.

Petitioner could not have been unaware that to maintain the contrary would be to defy reality and would be an affront to the law. While his first assigned error is thus worded, he would seek to impart plausibility to his claim by the ostensible invocation of the exemption clause in the Agreement by virtue of which a "national of the United Sates serving in or employed in the Philippines in connection with the construction, maintenance, operation or defense of the bases and residing in the Philippines only by reason of such employment" is not to be taxed on his income unless derived from Philippine sources or sources other than the United States sources."[13] The reliance, to repeat, is more apparent than real for as noted at the outset of this opinion, petitioner places more faith not on the language of the provision on exemption but on a sentiment given expression in a 1951 opinion of this Court, which would be made to yield such an unwarranted interpretation at war with the controlling constitutional and international law principles. At any rate, even if such a contention were more adequately pressed and insisted upon, it is on its face devoid of merit as the source clearly was Philippine.

In Saura Import and Export Co. *v.* Meer,[14] the case above referred to, this Court affirmed a decision rendered about seven months previously,[15] holding liable as an importer, within the

---

[13] Act XII of the Military Bases Agreement, par. 2, reads: "No national of the United States serving in or employed in the Philippines in connection with the construction, maintenance, operation or defense of the bases and residing in the Philippines by reason only of such employment, or his spouse and minor children and dependent parents of either spouse, shall be liable to pay income tax in the Philippines except in respect of income derived from Philippine source or sources other than the United States sources." (1 Philippine Treaty Series, 357, 362 [1968]).

[14] 88 Phil. 199 (1951).

[15] Go Cheng Tee *v.* Meer, 87 Phil. 18 (1950).

Supreme Court E-Library

contemplation of the National Internal Revenue Code provision, the trading firm that purchased army goods from a United States government agency in the Philippines. It is easily understandable why. If it were not thus, tax evasion would have been facilitated. The United States forces that brought in such equipment later disposed of as surplus, when no longer needed for military purposes, was beyond the reach of our tax statutes.

Justice Tuason, who spoke for the Court, adhered to such a rationale, quoting extensively from the earlier opinion. He could have stopped there. He chose not to do so. The transaction having occurred in 1946, not so long after the liberation of the Philippines, he proceeded to discuss the role of the American military contingent in the Philippines as a belligerent occupant. In the course of such a dissertation, drawing on his well-known gift for rhetoric and cognizant that he was making an *as if* statement, he did say: "While in army bases or installations within the Philippines those goods were in contemplation of law on foreign soil."

It is thus evident that the first, and thereafter the controlling, decision as to the liability for sales taxes as an importer by the purchaser, could have been reached without any need for such expression as that given utterance by Justice Tuason. Its value then as an authoritative doctrine cannot be as much as petitioner would mistakenly attach to it. It was clearly *obiter* not being necessary for the resolution of the issue before this Court.[16] It was an opinion "uttered by the way."[17] It could not then be controlling on the question before us now, the liability of the petitioner for income tax which, as announced at the opening of this opinion, is squarely raised for the first time.[18]

On this point, Chief Justice Marshall could again be listened to with profit. Thus: "It is a maxim, not to be disregarded, that

---

[16] Uy Po *v.* Collector of Customs, 34 Phil. 153 (1916); Morales *v.* Paredes, 55 Phil. 565 (1930); Abad *v.* Carganillo Vda. de Yance, 95 Phil. 51 (1954).

[17] People *v.* Macadaeg, 91 Phil. 410 (1952).

[18] Cf. de los Reyes *v.* de Villa, 48 Phil. 227 (1925).

Supreme Court E-Library

general expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision."[19]

Nor did the fact that such utterance of Justice Tuason was cited in Co Po *v.* Collector of Internal Revenue,[20] a 1962 decision relied upon by petitioner, put a different complexion on the matter. Again, it was by way of pure embellishment, there being no need to repeat it, to reach the conclusion that it was the purchaser of army goods, this time from military bases, that must respond for the advance sales taxes as importer. Again, the purpose that animated the reiteration of such a view was clearly to emphasize that through the employment of such a fiction, tax evasion is precluded. What is more, how far divorced from the truth was such statement was emphasized by Justice Barrera, who penned the Co Po opinion, thus: "It is true that the areas covered by the United States Military Bases are not foreign territories both in the political and geographical sense."[21]

Justice Tuason moreover made explicit that rather than corresponding with reality, what was said by him was in the way of a legal fiction. Note his stress on "in contemplation of law." To lend further support to a conclusion already announced, being at that a confirmation of what had been arrived at in the earlier case, distinguished by its sound appreciation of the issue then before this Court and to preclude any tax evasion, an observation certainly not to be taken literally was thus given utterance.

This is not to say that it should have been ignored altogether afterwards. It could be utilized again, as it undoubtedly was, especially so for the purpose intended, namely to stigmatize as

---

[19] 6 Wheat, 264, 399 (1821) reiterated in Myers *v.* United States, 272 US 52, (1926). Cf. Northern Nat. Bank *v.* Porter Township, 110 US 608 (1884); Weyerhaeuser *v.* Hoyt, 219 US 380 (1911); Osaka Shosen Kaisha Line *v.* United States, 300 US 98; Wright *v.* United States, 302 US 583 (1938); Green *v.* United States, 355 US 184 (1957).

[20] 5 SCRA 1057.

[21] *Ibid,* p. 1059.

Supreme Court E-Library

without support in law any attempt on the part of a taxpayer to escape an obligation incumbent upon him. So it was quoted with that end in view in the Co Po case. It certainly does not justify any effort to render futile the collection of a tax legally due, as here. That was farthest from the thought of Justice Tuason.

What is more, the statement on its face is, to repeat, a legal fiction. This is not to discount the uses of a *fictio juris* in the science of the law. It was Cardozo who pointed out its value as a device "to advance the ends of justice" although at times it could be "clumsy" and even "offensive."[22] Certainly, then, while far from objectionable as thus enunciated, this observation of Justice Tuason could be misused or misconstrued in a clumsy manner to reach an offensive result. To repeat, properly used, a legal fiction could be relied upon by the law, as Frankfurter noted, in the pursuit of legitimate ends.[23] Petitioner then would be well-advised to take to heart such counsel of care and circumspection before invoking not a legal fiction that would avoid a mockery of the law by avoiding tax evasion but what clearly is a misinterpretation thereof, leading to results that would have shocked its originator.

The conclusion is thus irresistible that the crucial error assigned, the only one that calls for discussion, to the effect that for income tax purposes the Clark Air Force Base is outside Philippine territory, is utterly without merit. So we have said earlier.

3. To impute then to the statement of Justice Tuason the meaning that petitioner would fasten on it is, to paraphrase Frankfurter, to be guilty of succumbing to the vice of literalness. To so conclude is, whether by design or inadvertence, to misread it. It certainly is not susceptible of the mischievous consequences now sought to be fastened on it by petitioner.

That it would be fraught with such peril to the enforcement of our tax statutes on the military bases under lease to the

---

[22] Cardozo, The Paradoxes of Legal Science, 34 (1928).

[23] Nashville C. St. Louis Ry *v.* Browning, 310 US 362 (1940).

Supreme Court E-Library

American armed forces could not have been within the contemplation of Justice Tuason. To so attribute such a bizarre consequence is to be guilty of a grave disservice to the memory of a great jurist. For his real and genuine sentiment on the matter in consonance with the imperative mandate of controlling constitutional and international law concepts was categorically set forth by him, not as an *obiter* but as the rationale of the decision, in People *v.* Acierto[24] thus: "By the [Military Bases] Agreement, it should be noted, the Philippine Government merely consents that the United States exercise jurisdiction in certain cases. The consent was given purely as a matter of comity, courtesy, or expediency. The Philippine Government has not abdicated its sovereignty over the bases as part of the Philippine territory or divested itself completely of jurisdiction over offenses committed therein."

Nor did he stop there. He did stress further the full extent of our territorial jurisdiction in words that do not admit of doubt. Thus: "This provision is not and can not on principle or authority be construed as a limitation upon the rights of the Philippine Government. If anything, it is an emphatic recognition and reaffirmation of Philippine sovereignty over the bases and of the truth that all jurisdictional rights granted to the United States and not exercised by the latter are reserved by the Philippines for itself."[25]

It is in the same spirit that we approach the specific question confronting us in this litigation. We hold, as announced at the outset, that petitioner was liable for the income tax arising from a sale of his automobile in the Clark Field Air Base, which clearly is and cannot otherwise be other than, within our territorial jurisdiction to tax.

4. With the mist thus lifted from the situation as it truly presents itself, there is nothing that stands in the way of an affirmance

---

[24] 92 Phil. 534, 542 (1953).

[25] *Ibid,* p. 543.

Supreme Court E-Library

of the Court of Tax Appeals decision. No useful purpose would be served by discussing the other assigned errors, petitioner himself being fully aware that if the Clark Air Force Base is to be considered, as it ought to be and as it is, Philippine soil or territory, his claim for exemption from the income tax due was distinguished only by its futility.

There is further satisfaction in finding ourselves unable to indulge petitioner in his plea for reversal. We thus manifest fealty to a pronouncement made time and time again that the law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[26] Petitioner had not done so. Petitioner cannot do so.

WHEREFORE, the decision of the Court of Tax Appeals of May 12, 1966 denying the refund of ₱2,979.00 as the income tax paid by petitioner is affirmed. With costs against petitioner.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro and *Teehankeee, JJ.,* concur.

Reyes, J.B.L., J., in the result.

Barredo, J., did not take part.

[G.R. Nos. L-26712-16. December 27, 1969]

UNITED CHRISTIAN MISSIONARY SOCIETY, UNITED CHURCH BOARD FOR WORLD MINISTERS, BOARD OF FOREIGN MISSION OF THE REFORMED CHURCH IN AMERICA, BOARD OF MISSION OF THE EVANGELICAL UNITED PRESBYTERIAN CHURCH, COMMISSION OF ECUMENICAL MISSION ON

---

[26] Cf. Commissioner of Internal Revenue *v.* Guerrero, 21 SCRA 180 (1967) and the cases therein cited. See also E. Rodriguez, Inc. *v.* Collector of Internal Revenue, 28 SCRA 1119 (1969).