

## THIRD DIVISION

[ G.R. No. 230138, January 13, 2021 ]

**ST. MARY'S ACADEMY CALOOCAN CITY, INC., PETITIONER, OF VS. HON. KIM JACINTO S. HENARES, IN HER OFFICIAL CAPACITY AS THE COMMISSIONER OF INTERNAL REVENUE, HON. GERARDO R. FLORENDO, IN HIS OFFICIAL CAPACITY AS REGIONAL DIRECTOR, BIR REVENUE REGION NO. 5, CALOOCAN CITY, AND HON. REBE D. DETABLAN, IN HIS OFFICIAL CAPACITY AS REVENUE DISTRICT OFFICER, BIR REVENUE DISTRICT NO. 27 (CALOOCAN CITY), AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

**LEONEN, J.:**

DECISION

LEONEN, J.:

It is the Court of Tax Appeals, and not the regional trial courts, that has the jurisdiction to rule on the constitutionality and validity of revenue issuances by the Commissioner of Internal Revenue.

This Court resolves a Petition for Review on *Certiorari*<sup>[1]</sup> assailing the Court of Appeals' Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> granting the appeal from the Order<sup>[4]</sup> and Resolution<sup>[5]</sup> of the Regional Trial Court, which declared Revenue Memorandum Order No. 20-2013 (RMO No. 20-2013) unconstitutional and Revenue Memorandum Circular No. 52-2013 (RMC No. 52-2013) illegal.<sup>[6]</sup>

In July 2013, Commissioner of Internal Revenue Kim S. Jacinto Henares (Commissioner Jacinto-Henares) issued RMO No. 20-2013, which provided the guidelines in the processing of tax exemption applications and the re-validation of tax exemption rulings and certificates of corporations listed under Section 30 of the National Internal Revenue Code.<sup>[7]</sup>

A month later, Commissioner Jacinto-Henares issued RMC No. 52-2013, which clarified the validity of unused and unissued principal and supplementary receipts or invoices printed before January 18, 2013.<sup>[8]</sup> The circular set deadlines for their validity; beyond the dates specified, the receipts and invoices would no longer be valid. Thus, taxpayers were required to secure new authority to print receipts or invoices.<sup>[9]</sup>

On November 13, 2013, Revenue District Officer Rene Detablan (Detablan) wrote a letter to St. Mary's Academy of Caloocan City (St. Mary's Academy), informing it of its failure to apply for a new authority to print. He also reminded the academy that under RMC No. 52-2013, its receipts were no longer valid as of October 31, 2013, and that subsequent issuance of receipts starting November 1, 2013 without an

authority to print violated the National Internal Revenue Code. Thus, Detablan demanded that St. Mary's Academy pay the penalty should it fail to show its new authority to print.<sup>[10]</sup>

In response, St. Mary's Academy said that it was a non-stock, non profit educational institution that was "exempt from taxes and duties[.]"<sup>[11]</sup> It cited Revenue Ruling No. 159-98, which states that non-stock, non-profit educational institutions were exempt from issuance of receipts and sales invoices printed with the permission and stamp of the Bureau of Internal Revenue.<sup>[12]</sup> Even if this ruling were or would be revoked, St. Mary's Academy maintained that it would still not be compelled to apply for a new authority to print, as that is only required for entities doing business.<sup>[13]</sup>

Detablan referred the matter to Regional Director Gerardo R. Florendo (Florendo). Florendo, in turn, wrote St. Mary's Academy saying that it was not exempt from applying for a new authority to print He explained that the regulation not only covers principal receipts and invoices, but also supplementary ones such as delivery receipts, collection receipts, and other documents, which St. Mary's Academy issues. The requirement was merely intended for recording, monitoring, and control purposes.<sup>[14]</sup>

Florendo also insisted that St. Mary's Academy had to renew its application for tax exemption as a non-stock, non-profit educational institution under RMO No. 20-2013.<sup>[15]</sup> Thus, St. Mary's Academy filed before the Regional Trial Court of Quezon City a Petition for Injunction and Prohibition against Commissioner Jacinto-Henares, Detablan, and Florendo. It alleged that as a non-stock, non-profit educational institution, all its assets and revenues "actually, directly, and exclusively used for educational purposes"<sup>[16]</sup> were exempt from internal revenue taxes. It also claimed that it was not engaged in business and was not required to secure an authority to print receipts and invoices Despite this, the Bureau of Internal Revenue required it to surrender and destroy its official receipts and apply for a new authority to print When it did not do so, the Bureau of Internal Revenue allegedly imposed a penalty of P10,000.00 for non-registration, and an additional penalty of P20,000.00 for every receipt printed without authority.<sup>[18]</sup>

Thus, St. Mary's Academy prayed that RMC No. 52-2013 and RMO No. 20-2013, insofar as they cover non-stock, non-profit educational institutions, should be declared unconstitutional and illegal.<sup>[19]</sup>

Defending the assailed issuances, Commissioner Jacinto-Henares, Detablan, and Florendo countered that they were made pursuant to the Commissioner's rule-making power. Accordingly, they said that injunction and prohibition are inapplicable remedies as they only apply to acts done in the exercise of judicial, quasi-judicial, or ministerial functions.<sup>[20]</sup> They prayed that the Petition be dismissed for lack of merit and for violating the doctrine of exhaustion of administrative remedies.<sup>[21]</sup>

The Republic of the Philippines, through the Office of the Solicitor General, filed its separate Comment, saying that the Petition was premature for raising no justiciable controversy. It argued that no sanction has been imposed on St. Mary's Academy at the time it filed the case.<sup>[22]</sup>

On June 26, 2014, the Regional Trial Court issued an Order<sup>[23]</sup> granting the prayer for preliminary injunction. It found that St. Mary's Academy did not need to apply for an authority to print since it was not subject to internal revenue taxes and was not engaged in business. It also ruled that Commissioner Jacinto-Henares had no authority to amend provisions of the National Internal Revenue Code by requiring additional documents before a tax-exempt entity such as St. Mary's Academy could enjoy this status.<sup>[24]</sup> The dispositive portion of the Order reads:

WHEREFORE, a Preliminary Injunction is hereby ISSUED to refrain RESPONDENTS and/or any of its representatives and agents from implementing Revenue Memorandum Circular No. 52-2013 and Revenue Memorandum Order No. 20-2013 with respect to non-stock non-profit educational institution, upon posting of the petitioner of a bond in the amount of TWO MILLION PESOS (P2,000,000.00).

SO ORDERED.<sup>[25]</sup>

Commissioner Jacinto-Henares, Detablan, Flores, and the Republic moved for reconsideration of the Order, while St. Mary's Academy moved for the submission of the case for decision on the merits.<sup>[26]</sup> Subsequently, on October 10, 2014, the Regional Trial Court issued a Resolution<sup>[27]</sup> declaring the issuances unconstitutional. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the Court orders:

- 1) RMO 20-2013 is hereby declared as UNCONSTITUTIONAL insofar as it is made to apply to non-stock and non-profit educational institutions and
- 2) RMC 52-201[3] ILLEGAL insofar as it is made to apply to non-stock and non-profit educational institutions as it is (sic) runs counter to Sections 237 and 238 of the National Internal Revenue Code.

SO ORDERED.<sup>[28]</sup>

After a failed motion for reconsideration,<sup>[29]</sup> Commissioner Jacinto Henares, Detablan, Florendo, and the Republic lodged their appeal. In its August 31, 2016 Decision,<sup>[30]</sup> the Court of Appeals granted the appeal and set aside the Regional Trial Court's Order and Resolution. It dismissed St. Mary's Academy's Petition for injunction and prohibition.<sup>[31]</sup>

Preliminarily, the Court of Appeals held that Commissioner JacintoHenares, in issuing the assailed issuances, was exercising her rule-making power under Section 4 of the National Internal Revenue Code. She "did not act in any judicial, quasi-judicial ... or ministerial capacity";<sup>[32]</sup> hence, there could not have been a violation of the rule on exhaustion of administrative remedies, since this principle only applies when the administrative agency concerned performs a quasi-judicial function.<sup>[33]</sup>

Nonetheless, the Court of Appeals ruled that St. Mary's Academy's Petition should be dismissed. It held that Rule 58 and Rule 65 of the Rules of Court say that injunction and prohibition, respectively, are unavailing when the acts sought to be

enjoined had already been accomplished, as in the assailed issuances.<sup>[34]</sup> Additionally, it noted that the writ of prohibition, which is directed against judicial, quasi-judicial, and ministerial acts, cannot be issued against the assailed issuances, which were issued pursuant to the Commissioner's quasi-legislative power.<sup>[35]</sup>

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the appeal is GRANTED. The assailed Order(s) in Civil Case No. R-QZN-13-06083-CV are SET ASIDE for being null and void and therein petition is DISMISSED. No costs.<sup>[36]</sup>

St. Mary's Academy moved for reconsideration, but the Court of Appeals dismissed its Motion in its March 1, 2017 Resolution.<sup>[37]</sup> Hence, St. Mary's Academy filed this Petition.<sup>[38]</sup>

Petitioner faults the Court of Appeals for deciding on the appeal purely on procedural grounds and failing to tackle the substantive issues.<sup>[39]</sup>

On procedural grounds, petitioner argues that "[t]he Court of Appeals should have dismissed the appeal" since there was "no genuine issue of fact presented."<sup>[40]</sup> Respondents, it says, only belatedly contrived on appeal that it failed to exhaust administrative remedies so as to make it appear that a factual issue was involved.<sup>[41]</sup> Since the appeal only raised questions of law, the Court of Appeals should have dismissed it outright, the proper remedy being a Rule 45 petition directly filed with this Court.<sup>[42]</sup>

Moreover, petitioner insists that it properly raised the question of constitutionality through a petition for injunction and prohibition because of the courts' expanded powers of judicial review under the Constitution. It maintains that courts now have the power to determine grave abuse of discretion even when the act complained of was not done in the exercise of judicial, quasi-judicial, or ministerial functions.<sup>[43]</sup>

Further, petitioner argues that courts exercising their expanded judicial powers are not confined in cases for certiorari, but also in petitions for prohibition.<sup>[44]</sup> Thus, it asserts that while respondent Commissioner Jacinto-Henares issued the regulations in her rule-making power, grave abuse of discretion may still be abated and corrected in an action for injunction and prohibition.<sup>[45]</sup> It argues that the courts' expanded power of judicial review is not diminished even if the assailed act was done pursuant to a quasi-legislative power.<sup>[46]</sup>

Petitioner further claims that it brought its case before the Regional Trial Court pursuant to the doctrine of hierarchy of courts. It says that it did so out of prudence in case a factual issue may arise; but it turns out that there was none.<sup>[47]</sup>

On the substantive issues, petitioner maintains its tax-exempt status as a non-stock, non-profit educational institution and how the assailed regulations erode this privilege under Article XIV, Section 4(3) of the Constitution.<sup>[48]</sup>

Particularly, petitioner maintains the unconstitutionality of RMC No. 52-2013, insofar as it invalidates previous receipts or invoices, thus requiring all institutions, including non-stock, non-profit educational institutions, to apply for a new authority to print. The regulation, it says, assumes that the institution applying for an

authority to print is already subject to internal tax revenue, and it is up to the institution to prove its tax exempt status.<sup>[49]</sup>

Since the regulation imposes a penalty of P20,000.00 per transaction for receipts printed without an authority to print,<sup>[50]</sup> petitioner claims that it would incur millions in penalty, more so as it now uses computer-generated receipts for its transactions.<sup>[51]</sup>

Citing *Commissioner of Internal Revenue v. VG. Sinco*,<sup>[52]</sup> petitioner asserts that respondent Commissioner cannot impose additional requirements before a non-stock, non-profit educational institution can enjoy its tax-exempt status.<sup>[53]</sup> Petitioner cites a previous issuance, Department of Finance Order No. 137-87, which exempts non-stock, non-profit institutions from the issuance of receipts and sales invoices.<sup>[54]</sup> This exemption, petitioner says, means they should not be required to apply for authority to print receipts or invoices.<sup>[55]</sup>

As to RMO No. 20-2013, which requires institutions to apply for tax exemption rulings, petitioner insists that this is also impermissible for imposing an additional requirement not found in the Constitution.<sup>[56]</sup> It claims that it is already required to file an annual information return, from which the Bureau of Internal Revenue can assess whether it continues to operate as a non-stock, non-profit educational institution.<sup>[57]</sup> This, it claims, is enough to safeguard the government's interest, and an additional requirement would be superfluous and unconstitutional.<sup>[58]</sup> According to petitioner, its failure to secure a ruling under this regulation would result in it losing its tax-exempt status, and would subject it to income tax for all of its activities.<sup>[59]</sup>

Finally, petitioner asserts that it has presented its clear and unmistakable rights which are at risk of being violated by the questioned regulations. Thus, the relief of injunction is proper.<sup>[60]</sup>

In their Comment<sup>[61]</sup> filed by the Office of the Solicitor General, respondents mainly argue that tax exemptions are strictly construed against the persons claiming them. They say that enjoyment may be regulated to ensure that only those entitled to it are granted exempt status.<sup>[62]</sup>

Moreover, respondents insist that the questioned issuances did not amend, alter, or modify the National Internal Revenue Code.<sup>[63]</sup> They were issued only "for the orderly recording, monitoring and control of receipts" issued by all entities, whether taxable or tax-exempt.<sup>[64]</sup> To respondents, this is a policy decision in implementing tax laws, which is outside the scope of a court's review powers.<sup>[65]</sup>

Respondents maintain that the questioned issuances "did not erode petitioner's tax-exempt status"<sup>[66]</sup> since any claims for tax exemption must be substantiated. The issuances merely provided the framework for petitioner, and all other tax-exempt entities similarly situated, to substantiate its claim for validation.<sup>[67]</sup>

The documentary submissions, respondents insist, are not additional requirements.<sup>[68]</sup> These are only required for monitoring and recording purposes, and for the State to examine whether the entities are still compliant with the constitutional