

SECOND DIVISION

[G.R. No. 215383, March 08, 2017]

**HON. KIM S. JACINTO-HENARES, IN HER OFFICIAL CAPACITY AS
COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE,
PETITIONER, VS. ST. PAUL COLLEGE OF MAKATI, RESPONDENT.**

R E S O L U T I O N

CARPIO, J.:

The Case

This petition for review^[1] assails the Decision dated 25 July 2014^[2] and Joint Resolution dated 29 October 2014^[3] of the Regional Trial Court, Branch 143, Makati City (RTC), in Civil Case No. 13-1405, declaring Revenue Memorandum Order (RMO) No. 20-2013 unconstitutional.

The Facts

On 22 July 2013, petitioner Kim S. Jacinto-Henares, acting in her capacity as then Commissioner of Internal Revenue (CIR), issued RMO No. 20-2013, *"Prescribing the Policies and Guidelines in the Issuance of Tax Exemption Rulings to Qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of the National Internal Revenue Code of 1997, as Amended."*

On 29 November 2013, respondent St. Paul College of Makati (SPCM), a non-stock, non-profit educational institution organized and existing under Philippine laws, filed a Civil Action to Declare Unconstitutional [Bureau of Internal Revenue] RMO No. 20-2013 with Prayer for Issuance of Temporary Restraining Order and Writ of Preliminary Injunction^[4] before the RTC. SPCM alleged that "RMO No. 20-2013 imposes as a prerequisite to the enjoyment by non-stock, non-profit educational institutions of the privilege of tax exemption under Sec. 4(3) of Article XIV of the Constitution both a registration and approval requirement, i.e., that they submit an application for tax exemption to the BIR subject to approval by CIR in the form of a Tax[]Exemption Ruling (TER) which is valid for a period of [three] years and subject to renewal."^[5] According to SPCM, RMO No. 20-2013 adds a prerequisite to the requirement under Department of Finance Order No. 137-87,^[6] and makes failure to file an annual information return a ground for a non-stock, non profit educational institution to "automatically lose its income tax-exempt status."^[7]

In a Resolution dated 27 December 2013,^[8] the RTC issued a temporary restraining order against the implementation of RMO No. 20-2013. It found that failure of SPCM to comply with RMO No. 20-2013 would necessarily result to losing its tax-exempt

status and cause irreparable injury.

In a Resolution dated 22 January 2014,^[9] the RTC granted the writ of preliminary injunction after finding that RMO No. 20-2013 appears to divest non-stock, non-profit educational institutions of their tax exemption privilege. Thereafter, the RTC denied the CIR's motion for reconsideration. On 29 April 2014, SPCM filed a Motion for Judgment on the Pleadings under Rule 34 of the Rules of Court.

The Ruling of the RTC

In a Decision dated 25 July 2014, the RTC ruled in favor of SPCM and declared RMO No. 20-2013 unconstitutional. It held that "by imposing the x x x [prerequisites alleged by SPCM,] and if not complied with by non-stock, non-profit educational institutions, [RMO No. 20-2013 serves] as diminution of the constitutional privilege, which even Congress cannot diminish by legislation, and thus more so by the [CIR] who merely exercise[s] quasi-legislative function."^[10]

The dispositive portion of the Decision reads:

WHEREFORE, in view of all the foregoing, the Court hereby declares BIR RMO No. 20-2013 as UNCONSTITUTIONAL for being violative of Article XIV, Section 4, paragraph 3. Consequently, all Revenue Memorandum Orders subsequently issued to implement BIR RMO No. 20-2013 are declared null and void.

The writ of preliminary injunction issued on 03 February 2014 is hereby made permanent.

SO ORDERED.^[11]

On 18 September 2014, the CIR issued RMO No. 34-2014,^[12] which clarified certain provisions of RMO No. 20-2013, as amended by RMO No. 28-2013.^[13]

In a Joint Resolution dated 29 October 2014, the RTC denied the CIR's motion for reconsideration, to wit:

WHEREFORE, viewed in the light of the foregoing premises, the Motion for Reconsideration filed by the respondent is hereby DENIED for lack of merit.

Meanwhile, this Court clarifies that the phrase "Revenue Memorandum Order" referred to in the second sentence of its decision dated July 25, 2014 refers to "issuance/s" of the respondent which tends to implement RMO 20-2013 for if it is otherwise, said decision would be useless and would be rendered nugatory.

SO ORDERED.^[14]

Hence, this present petition.

The Issues

The CIR raises the following issues for resolution:

WHETHER THE TRIAL COURT CORRECTLY CONCLUDED THAT RMO [NO.] 20-2013 IMPOSES A PREREQUISITE BEFORE A NON-STOCK, NON-PROFIT EDUCATIONAL INSTITUTION MAY AVAIL OF THE TAX EXEMPTION UNDER SECTION 4(3), ARTICLE XIV OF THE CONSTITUTION.

WHETHER THE TRIAL COURT CORRECTLY CONCLUDED THAT RMO NO. 20-2013 ADDS TO THE REQUIREMENT UNDER DEPARTMENT OF FINANCE ORDER NO. 137-87.^[15]

The Ruling of the Court

We deny the petition on the ground of mootness.

We take judicial notice that on 25 July 2016, the present CIR Caesar R. Dulay issued RMO No. 44-2016, which provides that:

SUBJECT: Amending Revenue Memorandum Order No. 20-2013, as amended (Prescribing the Policies and Guidelines in the Issuance of Tax Exemption Rulings to Qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of the National Internal Revenue Code of 1997, as Amended)

In line with the Bureau's commitment to put in proper context the nature and tax status of non-profit, non-stock educational institutions, this Order is being issued to exclude non-stock, non-profit educational institutions from the coverage of Revenue Memorandum Order No. 20-2013, as amended.

SECTION 1. Nature of Tax Exemption. --- **The tax exemption of non-stock, non-profit educational institutions is directly conferred by paragraph 3, Section 4, Article XIV of the 1987 Constitution, the pertinent portion of which reads:**