

THIRD DIVISION

[G.R. No. 152492, October 16, 2003]

**PALMA DEVELOPMENT CORPORATION, PETITIONER, VS.
MUNICIPALITY OF MALANGAS, ZAMBOANGA DEL SUR,
RESPONDENT.**

D E C I S I O N

PANGANIBAN, J.:

In accordance with the Local Government Code of 1991, a municipal ordinance imposing fees on goods that pass through the issuing municipality's territory is null and void.

The Case

The Petition for Review^[1] before us assails the August 31, 2001 Decision^[2] and the February 6, 2002 Resolution^[3] of the Court of Appeals (CA) in CA-GR CV No. 56477. The dispositive portion of the challenged Decision reads as follows:

"UPON THE VIEW WE TAKE OF THIS CASE, THUS, the assailed Decision is **VACATED** and **SET ASIDE**, and this case is ordered **REMANDED** to the court *a quo* for the reception of evidence of the parties on the matter or point delineated in the final sentence above-stated."^[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The facts are undisputed. Petitioner Palma Development Corporation is engaged in milling and selling rice and corn to wholesalers in Zamboanga City. It uses the municipal port of Malangas, Zamboanga del Sur as transshipment point for its goods. The port, as well as the surrounding roads leading to it, belong to and are maintained by the Municipality of Malangas, Zamboanga del Sur.

On January 16, 1994, the municipality passed Municipal Revenue Code No. 09, Series of 1993, which was subsequently approved by the Sangguniang Panlalawigan of Zamboanga del Sur in Resolution No. 1330 dated August 4, 1994. Section 5G.01 of the ordinance reads:

"Section 5G.01. Imposition of fees. There shall be collected service fee for its use of the municipal road[s] or streets leading to the wharf and to any point along the shorelines within the jurisdiction of the municipality and for police surveillance on all goods and all equipment harbored or sheltered in the premises of the wharf and other within the jurisdiction of

this municipality in the following schedule:

a) Vehicles and Equipment:	rate of fee
1. Automatic per unit	P10.00
2. Ford Fiera	P10.00
3. Trucks	P10.00

X X X X X X X X X

b) Other Goods, Construction Material products:

1. Bamboo craft	P20.00
2. Bangus/Kilo	0.30

X X X X X X X X X

41. Rice and corn grits/sack 0.50" [5]

Accordingly, the service fees imposed by Section 5G.01 of the ordinance was paid by petitioner under protest. It contended that under Republic Act No. 7160, otherwise known as the Local Government Code of 1991, municipal governments did not have the authority to tax goods and vehicles that passed through their jurisdictions. Thereafter, before the Regional Trial Court (RTC) of Pagadian City, petitioner filed against the Municipality of Malangas on November 20, 1995, an action for declaratory relief assailing the validity of Section 5G.01 of the municipal ordinance.

On the premise that the case involved the validity of a municipal ordinance, the RTC directed respondent to secure the opinion of the Office of the Solicitor General. The trial court likewise ordered that the opinions of the Departments of Finance and of Justice be sought. As these opinions were still unavailable as of October 17, 1996, petitioner's counsel filed, without objection from respondent, a Manifestation seeking the submission of the case for the RTC's decision on a pure question of law.

In due time, the trial court rendered its November 13, 1996 Decision declaring the entire Municipal Revenue Code No. 09 as *ultra vires* and, hence, null and void.

Ruling of the Court of Appeals

The CA held that local government units already had revenue-raising powers as provided for under Sections 153 and 155 of RA No. 7160. It ruled as well that within the purview of these provisions -- and therefore valid -- is Section 5G.01, which provides for a "service fee for the use of the municipal road or streets leading to the wharf and to any point along the shorelines within the jurisdiction of the municipality" and "for police surveillance on all goods and all equipment harbored or sheltered in the premises of the wharf and other within the jurisdiction of this municipality."

However, since both parties had submitted the case to the trial court for decision on a pure question of law without a full-blown trial on the merits, the CA could not determine whether the facts of the case were within the ambit of the aforecited sections of RA No. 7160. The appellate court ruled that petitioner still had to adduce evidence to substantiate its allegations that the assailed ordinance had imposed fees on the movement of goods within the Municipality of Malangas in the guise of a toll

fee for the use of municipal roads and a service fee for police surveillance. Thus, the CA held that the absence of such evidence necessitated the remand of the case to the trial court.

Hence, this Petition.^[6]

Issues

Petitioner raises the following issues for our consideration:

- "1. Whether or not the Court of Appeals erred when it ordered that the extant case be remanded to the lower court for reception of evidence.
- "2. Whether or not the Court of Appeals erred when it ruled that a full blown trial on the merits is necessary and that plaintiff-appellee, now petitioner, 'has to adduce evidence to substantiate its thesis that the assailed municipal ordinance, in fact, imposes fees on the movement of goods within the jurisdiction of the defendant and that this imposition is merely in the guise of a toll fee for the use of municipal roads and service fee for police surveillance.'
- "3. Whether or not the Court of Appeals erred when it did not rule that the questioned municipal ordinance is contrary to the provisions of R.A. No. 7160 or the Local Government Code of the Philippines." ^[7]

In brief, the issues boil down to the following: 1) whether Section 5G.01 of Municipal Revenue Code No. 09 is valid; and 2) whether the remand of the case to the trial court is necessary.

The Court's Ruling

The Petition is meritorious.

First Issue:

Validity of the Imposed Fees

Petitioner argues that while respondent has the power to tax or impose fees on *vehicles* using its roads, it cannot tax the *goods* that are transported by the vehicles. The provision of the ordinance imposing a service fee for police surveillance on goods is allegedly contrary to Section 133(e) of RA No. 7160, which reads:

"Section 133. *Common Limitations on the Taxing Powers of Local Government Units.* - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

x x x x x x x x

e) Taxes, fees and charges and other impositions upon goods carried into and out of, or passing through, the territorial jurisdictions of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees or charges in any form whatsoever upon such goods or merchandise;"

On the other hand, respondent maintains that the subject fees are intended for services rendered, the use of municipal roads and police surveillance. The fees are supposedly not covered by the prohibited impositions under Section 133(e) of RA No. 7160.^[8] It further contends that it was empowered by the express mandate of Sections 153 and 155 of RA No. 7160 to enact Section 5G.01 of the ordinance. The pertinent provisions of this statute read as follows:

"Section 153. *Service Fees and Charges*. -- Local government units may impose and collect such reasonable fees and charges for services rendered.

X X X X X X X X

"Section 155. *Toll Fees or Charges*. -- The sanggunian concerned may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the local government unit concerned: *Provided*, That no such toll fees or charges shall be collected from officers and enlisted men of the Armed Forces of the Philippines and members of the Philippine National Police on mission, post office personnel delivering mail, physically-handicapped, and disabled citizens who are sixty-five (65) years or older.

"When public safety and welfare so requires, the sanggunian concerned may discontinue the collection of the tolls, and thereafter the said facility shall be free and open for public use."

Respondent claims that there is no proof that the P0.50 fee for every sack of rice or corn is a fraudulent legislation enacted to subvert the limitation imposed by Section 133(e) of RA No. 7160. Moreover, it argues that allowing petitioner to use its roads without paying the P0.50 fee for every sack of rice or corn would contravene the principle of unjust enrichment.

By express language of Sections 153 and 155 of RA No. 7160, local government units, through their Sanggunian, may prescribe the terms and conditions for the imposition of toll fees or charges for the use of any public road, pier or wharf funded and constructed by them. A service fee imposed on vehicles using municipal roads leading to the wharf is thus valid. However, Section 133(e) of RA No. 7160 prohibits the imposition, in the guise of wharfage, of fees -- as well as all other taxes or charges in any form whatsoever -- on *goods* or merchandise. It is therefore irrelevant if the fees imposed are actually for police surveillance on the goods, because any other form of imposition on goods passing through the territorial jurisdiction of the municipality is clearly prohibited by Section 133(e).