

SECOND DIVISION

[G.R. No. 127139, February 19, 1999]

**JAIME C. LOPEZ, PETITIONER, VS. CITY OF MANILA AND HON.
BENJAMIN A.G. VEGA, PRESIDING JUDGE, RTC, MANILA,
BRANCH 39, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This petition for review on *certiorari*, assails the Order^[1] of the Regional Trial Court of Manila, Branch 39, promulgated on October 24, 1996, dismissing Civil Case No. 96-77510 which sought the declaration of nullity of City of Manila Ordinance No. 7894, filed by petitioner Jaime C. Lopez.

The facts as found by the trial court are as follows:

Section 219 of Republic Act 7160 (R.A. 7160) or the Local Government Code of 1991 requires the conduct of the general revision of real property as follows:

"General Revision of Assessments^[2] and Property Classification -- The provincial, city or municipal assessor shall undertake a general revision of real property assessments within two (2) years after the effectivity of this Code and every three (3) years thereafter."

Although R.A. 7160 took effect on January 1, 1992, the revision of real property assessments prescribed therein was not yet enforced in the City of Manila. However, the process of real property valuation had already been started and done by the former city assessor.

In 1992, the schedule of real property values in the city was prepared and submitted to the City Council of Manila, but for unknown reason, was not acted upon. Nevertheless, despite the inaction of the City Council, there was a continuous update of the fair market values of the real properties within the city.

Until the year 1995, the basis for collection of real estate taxes in the City of Manila was the old, year-1979, real estate market values.

Mrs. Lourdes Laderas, the newly appointed City Assessor of Manila, received Memorandum Circular No. 04-95 dated March 20, 1995, from the Bureau of Local Government Finance, Department of Finance. This memorandum relates to the failure of most of the cities and municipalities of Metropolitan Manila, including the City of Manila, to conduct the general revision of real property. For this purpose, Mrs. Laderas embarked in a working dialogue with the Office of the City Mayor and the City Council for the completion of the task.

After obtaining the necessary funds from the City Council, the City Assessor began the process of general revision based on the updated fair market values of the real properties.

In the year 1995, the increase in valuation of real properties compared to the year-1979 market values ranges from 600% to 3,330%, but the City Assessor's office initially fixed the general average of increase to 1,700%. Mrs. Laderas felt that the increase may have adverse reactions from the public, hence, she ended up reducing the increase in the valuation of real properties to 1,020%.

In September 1995, the City Assessor's Office submitted the proposed schedule of fair market values to the City Council for its appropriate action. The Council acting on the proposed schedule, conducted public hearings as required by law. The proposed ordinance was subjected to the regular process in the enactment of ordinances pursuant to the City Charter of Manila. The first reading was held on September 12, 1995, the second on October 28, 1995, and the third on December 12, 1995. In between these dates, public hearings on the general revision, which included the schedule of values of real properties, were had, viz.; on September 28, 1995, October 5, 12 and 19, 1995 and November 27 and 29, 1995.

The proposed ordinance with the schedule of fair market values of real properties was published in the Manila Standard on October 28, 1995, and the Balita on November 1, 1995. On December 12, 1995, the City Council enacted Manila Ordinance No. 7894, entitled: "An Ordinance Prescribed as the Revised Schedule of Fair Market Values of Real Properties of the City of Manila." The ordinance was approved by the City Mayor on December 27, 1995, and made effective on Jan. 01, 1996. Thereafter, notices of the revised assessments were distributed to the real property owners of Manila pursuant to Sec. 223 of R.A. 7160.^[3]

With the implementation of Manila Ordinance No. 7894, the tax on the land owned by the petitioner was increased by five hundred eighty percent (580%). With respect to the improvement on petitioner's property, the tax increased by two hundred fifty percent (250%).

As a consequence of these increases, petitioner Jaime C. Lopez, filed on March 18, 1996, a special proceeding for the declaration of nullity of the City of Manila Ordinance No. 7894 with preliminary injunction and prayer for temporary restraining order (TRO). The petition alleged that Manila Ordinance No. 7894 appears to be "unjust, excessive, oppressive or confiscatory." The case was originally raffled to the Regional Trial Court of Manila, Branch 5, which issued the TRO on April 10, 1996.

On the same date, Manila Ordinance No. 7905^[4] took effect, reducing by fifty percent (50%) the assessment levels^[5] (depending on the use of property, e.g., residential, commercial) for the computation of tax due. The new ordinance amended the assessment levels provided by Section 74,^[6] paragraph (A) of Manila Ordinance No. 7794.

Moreover, Section 2 of Manila Ordinance No. 7905^[7] provides that the amendment embodied therein shall take effect retroactively to January 1, 1996. The same provision indicates the maximum realty tax increases, as follows:

"Sec. 2 - x x x Provided, however, that the tax increase on residential lands and improvements shall in no case exceed by two hundred percent (200%) of the tax levied thereon in calendar year 1995 and the tax increase on commercial and industrial land, buildings and other structures shall not exceed by three hundred percent (300%) of the tax imposed thereon in calendar year 1995; Provided further, that the tax on all lands and improvements shall in no case be lower than the tax imposed thereon in calendar year 1995."

As a result, Manila Ordinance No. 7905 reduced the tax increase of petitioner's residential land to one hundred fifty-five percent (155%), while the tax increase for residential improvement was eighty-two percent (82%).

The maximum tax increase on classified commercial estates is three hundred percent (300%) but the tax increase on commercial land was only, two hundred eighty-eight percent (288%), and seventy-two percent (72%) on commercial portion of the improvement.

On April 12, 1996, respondent filed a motion for inhibition of the presiding judge of RTC, Branch 5, alleging that Judge Amelia Andrade had shown "markedly indulgent attitude towards the petitioner." Hence, Judge Andrade inhibited herself and directed the forwarding of the case record to the Clerk of Court for its re-raffle to another branch of the court.

Despite the amendment brought about by Manila Ordinance No. 7905, the controversy proceeded and the case was re-raffled to Branch 39 of the court which acted on the motions submitted by the parties for resolution, viz.: 1) application for preliminary injunction by the petitioner, and 2) motion to dismiss by the respondent. The reason relied upon by the City of Manila for the dismissal of the petition was for failure of the petitioner to exhaust administrative remedies.

On May 9, 1996, the court directed the issuance of a writ of injunction and denied, in the meanwhile, the motion to dismiss by the respondent. The reason for the denial of the respondent's motion to dismiss was not detailed to avoid a repetition of the unfortunate situation in RTC-Manila, Branch 5, wherein the counsel for the respondent assumed bias on the part of Judge Andrade.

On May 22, 1996, the respondent filed the instant motion for reconsideration on the denial of its motion to dismiss. The movant-respondent aside from reiterating the basic ground alleged in its motion to dismiss underscored the additional premise, which is the happening of a supervening event, i.e., the enactment and approval of the City Mayor of Manila Ordinance No. 7905.

On October 24, 1996, the trial court granted the motion to dismiss filed by the respondent. The dismissal order was justified by petitioner's failure to exhaust the administrative remedies and that the petition had become moot and academic when Manila Ordinance No. 7894 was repealed by Manila Ordinance No. 7905. Notwithstanding, the trial court likewise resolved all other interlocking issues.

The dispositive portion of the trial court's order is as follows:

"WHEREFORE, finding the motion dated May 19, 1996 filed by the herein respondent on May 22, 1996 sufficiently well-taken, the order dated May 9, 1996 is hereby set aside. Let the petition filed by the herein petitioner on March 8, 1996 be, as it is, hereby DISMISSED. The order of preliminary injunction dated May 9, 1996, is also set aside and the writ of injunction likewise issued pursuant thereto, dissolved.

SO ORDERED."^[8]

The petitioner filed a motion for reconsideration, but it was denied for lack of merit.

Hence, the petitioner now comes before this Court raising in his petition the following issues:

I. DID THE RESPONDENT TRIAL COURT IN CIVIL CASE NO. 96-77510 ERR IN HOLDING THAT THE PETITIONER FAILED TO EXHAUST ALL ADMINISTRATIVE REMEDIES, AND THEREFORE, THE PETITION OUGHT TO BE DISMISSED? AND;

II. DID THE RESPONDENT COURT ERR IN FAILING TO CORRECTLY APPLY SECTIONS 212 AND 221 OF THE LOCAL GOVERNMENT CODE OF 1991?

Petitioner contends that when the trial court ruled that it has jurisdiction over the case, the question of whether he needs to resort to the exhaustion of administrative remedies becomes moot and academic. He claims that resort to administrative remedies on constitutionality of law is merely permissive as provided by Sec. 187 of R.A. 7160, *viz.*:

"x x x Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures **may be raised** on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal. x x x" (emphasis supplied)

Petitioner further asserts that the question of the constitutionality of the city ordinance may be raised on appeal, either to the Secretary of Justice or the Regional Trial Court, both having concurrent jurisdiction over the case, in accordance with Batas Pambansa Blg. 129. He states that at the time he instituted this complaint, it was premature to resort to the remedies provided by R.A. 7160 because he has not received the formal notice of assessment yet, hence, he could not be expected to pay under protest and elevate the exorbitant assessment to the Board of Assessment Appeals.

On the other hand, respondent argues that the adjustment of the fair market values of real properties in the City of Manila was long overdue, being updated only after fifteen (15) years. According to the respondent, petitioner filed the case, merely to take advantage of the situation to gain political mileage and help advance his mayoralty bid.

As a general rule, where the law provides for the remedies against the action of an administrative board, body, or officer, relief to courts can be sought only after exhausting all remedies provided. The reason rests upon the presumption that the

administrative body, if given the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly. Therefore, where a remedy is available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency the opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to courts.^[9] This rule, however, admits certain exceptions.^[10]

With regard to questions on the legality of a tax ordinance, the remedies available to the taxpayer are provided under Sections 187, 226, and 252 of R.A. 7160.

Section 187 of R.A. 7160 provides, that the taxpayer may question the constitutionality or legality of tax ordinance on appeal within thirty (30) days from effectivity thereof, to the Secretary of Justice. The petitioner after finding that his assessment is unjust, confiscatory, or excessive, must have brought the case before the Secretary of Justice for questions of legality or constitutionality of the city ordinance.

Under *Section 226 of R.A. 7160*, an owner of real property who is not satisfied with the assessment of his property may, within sixty (60) days from notice of assessment, appeal to the Board of Assessment Appeals.^[11]

Should the taxpayer question the excessiveness of the amount of tax, he must first pay the amount due, in accordance with *Section 252 of R.A. 7160*. Then, he must request the annotation of the phrase "paid under protest" and accordingly appeal to the Board of Assessment Appeals by filing a petition under oath together with copies of the tax declarations and affidavits or documents to support his appeal.^[12]

The rule is well-settled that courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulations of activities coming under the special technical knowledge and training of such agencies.^[13] Furthermore, the crux of petitioner's cause of action is the determination of whether or not the tax is excessive, oppressive or confiscatory. This issue is essentially a question of fact and thereby, precludes this Court from reviewing the same.^[14]

We have carefully scrutinized the record of this case and we found no cogent reason to depart from the findings made by the trial court on this point. As correctly found by the trial court, the petition does not fall under any of the exceptions to excuse compliance with the rule on exhaustion of administrative remedies, to wit:

"One of the reasons for the doctrine of exhaustion is the separation of powers which enjoins upon the judiciary a becoming policy of non-interference with matters coming primarily within the competence of other department. x x x

There are however a number of instances when the doctrine may be dispensed with and judicial action validly resorted to immediately. Among these exceptional cases are: (1) when the question raised is purely legal, (2) when the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) when there is urgent need for judicial intervention; (5) when the claim involved is small; (6) when