SUPREME COURT
THIRD DIVISION

NORTHERN LINES, INC.,
***Petitioner*,**

-versus-

G.R. No. L-41376-77
June 29, 1988

THE HON. COURT OF TAX APPEALS, COMMISSIONER OF CUSTOMS and COMMISSIONER OF INTERNAL REVENUE,
***Respondents*.**
x----------x

D E C I S I O N

CORTES, *J.*:

The issue before the Court in this Petition for Review of a Resolution of the Court of Tax Appeals is whether or not petitioner Northern Lines, Inc. is entitled to an exemption from the payment of compensating tax on two (2) vessels it had procured under the Reparations Law.

The facts of the case are not disputed.

Petitioner Northern Lines, Inc. is a domestic corporation engaged in the shipping business. In 1960, pursuant to Contracts of Conditional

Purchase and Sale, it procured from the Reparations Commission two (2) vessels, the "Don Salvador," formerly named "Magsaysay," and the "Don Amando," formerly the "Estancia." Both vessels were released to petitioner as end-user but remained registered in the name of the Reparations Commission as owner.

The Commissioner of Customs assessed and demanded from petitioner the payment of compensating tax in the amount of P123,951.50 on the vessel "Don Salvador" and P122,332.99 on the vessel "Don Amando."

Disputing the assessment, petitioner brought its case to the Commissioner of Internal Revenue. However, the latter sustained the assessment of the Commissioner of Customs.

Petitioner, not satisfied with the assessment, filed two (2) "Petitions for Review with Preliminary Injunction" with the Court of Tax Appeals on October 24 and 28, 1960, docketed as C.T.A. Cases Nos. 955 (for the assessment on the "Don Amando") and 960 (for that on the "Don Salvador.") An amended petition in C.T.A. Case No. 955 was filed on October 26, 1960.

The Court of Tax Appeals granted the petitions for the issuance of writs of preliminary injunction and approved the bond for each case filed by petitioner.

Answers in the two cases were filed on January 3, 1961. On November 17, 1970, a "Partial Stipulation of Facts" was filed by the parties.

On November 29, 1971, the Court of Tax Appeals rendered a joint decision whereby the assessment was sustained and petitioner and its surety were ordered to pay the amounts assessed as compensating tax.

Petitioner's motion for reconsideration was denied by the tax court on March 21, 1972 for lack of merit. A copy of the decision was received by petitioner on May 11, 1972.

On May 20, 1972, petitioner appealed the decision of the Court of Tax Appeals to this Court in G.R. Nos. L-35070-71, but the appeal was

denied for lack of merit in a resolution dated June 1, 1972. Subsequent motions filed by petitioner to have the cases remanded to the Court of Tax Appeals for new trial were denied by this Court in resolutions dated August 17, 1972 and September 25, 1972.

In the meantime, petitioner requested from the Reparation Commission the renovation of the Contracts of Conditional Purchase and Sale covering the two vessels. The Commission denied petitioner's request in Resolution No. 268, dated October 10, 1972. Petitioner's request for reconsideration was denied in Resolution No. 346, dated December 13, 1972.

On November 3, 1972, the Commissioner of Internal Revenue sent a demand letter to petitioner for the payment of the assessed compensating tax. Petitioner failed to pay the amounts demanded.

In a letter dated February 4, 1974, petitioner requested from the Reparations Commission the restructuring of its delinquent accounts, pursuant to Presidential Decree No. 332, an amendatory act to the Reparations Law. This decree became effective on November 9, 1973.

On June 20, 1974, the Commissioner of Internal Revenue filed a motion for the issuance of a writ of execution, which the Court of Tax Appeals granted on October 11, 1974.

On February 14, 1975, petitioner and the Reparations Commissions entered into a Memorandum of Agreement for this restructuring of petitioner's delinquent accounts. Thus, on March 11, 1975, petitioner filed a motion to quash the writ of execution, on the ground that by virtue of the Memorandum of Agreement petitioner was now entitled to be exempted from the compensating tax as provided in Republic Act No. 1789 (the Reparations Law) as amended.

In a resolution dated August 4, 1975, the Court of Tax Appeals denied the motion to quash the writ of execution.

Hence, the instant petition for review.

Petitioner assigns the following errors:

I

THE HONORABLE COURT OF TAX APPEALS ERRED IN HOLDING THAT A DECISION WHICH HAS BECOME FINAL AND EXECUTORY CANNOT BE SUBJECT TO RENOVATION.

II

THE HONORABLE COURT OF TAX APPEALS ERRED IN NOT HOLDING THAT PETITIONER'S COMPLIANCE WITH THE REQUIREMENTS OF P.D. 332 IS DEEMED COMPLIANCE WITH THE REQUIREMENTS OF R.A. 3079.

Petitioner primarily argues that the Memorandum of Agreement entered into by and between petitioner and the Reparations Commission effectively novated the judgment of the Court of Tax Appeals and, hence, said judgment has become moot and academic and may no longer be executed. To support its main argument, petitioner cited abundant jurisprudence on novation of judgments [Petitioner's Brief, pp. 13-17.] This contention deserves scant consideration.

Petitioner's theory of novation of judgment cannot be applied to the instant case as the Memorandum of Agreement, which petitioner claims was a subsequent agreement that novated the final and executory judgment rendered by the Court of Tax Appeals, was entered into by and between petitioner and the Reparations Commission, which was not a party to the tax case. As pointed out by the Solicitor General:

> Furthermore, in all of the cases cited by petitioner, the compromise agreement and/or settlement were entered into and agreed upon by the party litigants. In this case, it bears repeating that the Memorandum of Agreement was entered into between the petitioner-taxpayer and the Reparations Commission which is not a party to the tax case. [Respondents' Brief, pp. 11-12.]

Thus, while petitioner is correct in arguing that final and executory judgments may be compromised, it must be emphasized that as

shown by the cases cited by petitioner itself in its brief (i.e. Fua Cam Lu v. Yap Fuaco, 74 Phil. 287 (1943); Jesalva v. Hon. Bautista, 105 Phil. 348 (1959); Sandico, Sr. v. Piquing, G.R. No. L-26115, November 29, 1971, 42 SCRA 322; Workmen's Insurance Co., Inc. v. Court of Appeals, G.R. No. L-29044, August 15, 1968, 24 SCRA 626; J.V. Development Corp. v. Cabullo, G.R. No. L-28733, September 30, 1971, 41 SCRA 127; Juan-Marcelo v. Go Kim Pah, G.R. No. L-27268, January 29, 1968, 22 SCRA 309; Palanca v. Court of Industrial Relations, G.R. Nos. L-33364-65; November 24, 1972, 48 SCRA 137] the compromise agreement must have been entered into by the party litigants. Evidently, such a situation does not obtain in the instant case as the Memorandum of Agreement, if at all it could be categorized as a compromise agreement, was executed by and between petitioner and the Reparations Commission, a stranger to the tax case. The respondents in the tax case, the Commissioners of Internal Revenue and Customs, who should be parties to any binding compromise agreement, are definitely not parties to the Memorandum of Agreement.

On this note, petitioner's theory of novation of judgment must fail.

Petitioner similarly contends that it is entitled to a stay in the execution of the judgment of the Court of Tax Appeals due to a change in the situation of the parties that would make execution inequitable — i.e., petitioner's subsequent entitlement to an exemption from the payment of compensating tax by virtue of the execution of the Memorandum of Agreement.

In the leading case of Amor v. Jugo, [77 Phil. 703 (1946)] the Court said:

> The respondent court cannot refuse to issue a writ of execution upon a final and executory judgment, or quash it, or order its stay, for, as a general rule, the parties will not be allowed, after final judgment, to object to the execution by raising new issues of fact or of law, except when there had been a change in the situation of the parties which makes such execution inequitable (Warner, Barnes & Co. vs. Jaucian, 13 Phil. 4; Behn, Meyer & Co. vs. McMicking, 11 Phil. 276; Molina vs. De la Riva, 8 Phil. 569; Espiritu vs. Crossfield and Guash, 14 Phil. 588; Flor Mata

> vs. Lichauco and Salinas, 36 Phil. 809; Chua A. H. Lee vs. Mapa, 51 Phil. 624); or when it appears that the controversy has never been submitted to the judgment of the court (Yulo and Sajo vs. Powell, 36 Phil. 732); or when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that the judgment debt has been paid or otherwise satisfied; or when the writ has been issued without authority (Wolfson vs. Del Rosario and Fajardo, 76 Phil. 143; Viuda de Dimayuga vs. Raymumdo and Nable, 42 O.G. 2121). (Emphasis supplied.)

The principle that when, after a judgment has become final and executory, facts and circumstances transpire which render its execution impossible or unjust, the interested party may ask a competent court to stay its execution or prevent its enforcement, was reiterated and applied in Nazal v. Belmonte [G.R. No. L-24410, May 23, 1968, 23 SCRA 700.] In this case, the Court, quoting extensively from earlier decisions with similar facts [i.e., Hernandez v. Clapis, 98 Phil. 684 (1956); Realiza v. Duarte, G.R. No. L-20527, August 31, 1967, 20 SCRA 1264; De los Santos v. Rodriguez, G.R. No. L-23170, January 31, 1968, 22 SCRA 451] ruled that although the judgment of the Court of First Instance ordering a party to vacate the parcel of land he was occupying and remove the building he constructed thereon was final and executory, it may not be enforced because the land involved in the case was eventually sold by the Government to the party's successor-in-interest subsequent to the entry of judgment and an original certificate of title was issued in the latter's favor.

In a later case, Luna v. Intermediate Appellate Court [G.R. No. 68374, June 18, 1985, 137 SCRA 7] the Court again applied the exception:

> The manifestation of the child Shirley that she would kill herself or run away from home if she should be taken away from the herein petitioners and forced to live with the private respondents, made during the hearings on petitioner's motion to set aside the writ of execution and reiterated in her letters to the members of the Court dated September 19, 1984 and January 2, 1985, and during the hearing of the case before this Court, is a circumstance that would make the execution of the

judgment rendered in Spec. Proc. No. 9417 of the Court of First Instance of Rizal inequitable, unfair and unjust, if not illegal.

In the instant case, after the Commissioner of Internal Revenue's motion for the issuance of the writ of execution was granted by the Court of Tax Appeals, but before execution could be effected, petitioner and the Reparations Commission entered into a Memorandum of Agreement restructuring petitioner's obligations. The question therefore is whether said Memorandum of Agreement may be considered as the renovated utilization contract requisite for the availment of the tax exemption as provided under the Reparations Law.

To resolve this issue a review of the pertinent law and jurisprudence vis-a-vis the facts is warranted.

Republic Act No. 1789, entitled "An Act Prescribing the National Policy in Procurement and Utilization of Reparations and Development Loans from Japan, Creating a Reparations Commission to Implement the Policy, Providing Funds Therefor, and for Other Purposes," took effect on June 21, 1957. It sought to implement the policy of the government "to utilize all reparations payments procured in whatever form from Japan under the terms of the Reparations Agreement between the Republic of the Philippines and Japan signed on May nine, nineteen hundred and fifty-six, in such manner as shall assure the maximum possible economic benefit to the Filipino people and in as equitable and widespread a manner as possible" [Sec. 1.] Thus, it gave preference to private productive projects in the procurement of reparations goods and services [Sec. 2(e).].

Pursuant to the declared policy of encouraging the private sector to invest in ventures utilizing reparations goods, R.A. No. 1789, as amended, provided for tax exemptions.

The original text of R.A. No. 1789 provided:

Sec. 14. Exemption from tax. — All reparations goods obtained by the government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by

> private parties shall be exempt only from the payment of customs duties, consular fees and the special import tax.

However, in 1961, the above-quoted section was amended by R.A. No. 3079 by including among the exemptions the payment of compensating tax:

> Sec. 14. Exemption from tax. — All reparations goods obtained by the government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt from the payment of customs duties, compensating tax, consular fees and the special import tax.

R.A. No. 3079 outlined the procedure through which the exemption from the payment of compensation tax can be availed of by existing end-users:

> Sec. 20. This Act shall take effect upon its approval, except that the amendment contained in Section seven hereof relating to the requirements for procurement orders including the requirement of down payment by private applicant end-users shall not apply to procurement orders already issued and verified at the time of the passage of this amendatory Act, and except further that the amendment contained in Section ten relating to the insurance of the reparations goods by the end-users upon delivery shall apply also to goods covered by contracts already entered into by the Commission and the end-user prior to the approval of the amendatory Act as well as goods already delivered to the end-user, and except further that the amendments contained in Sections eleven and twelve hereof relating to the terms of installment payments on capital goods disposed of to private parties, and the execution of a performance bond before delivery of reparations goods, shall not apply to contracts for the utilization of reparations goods already entered into by the Commission and the end-users prior to the approval of this amendatory Act: Provided, That any end-user may apply for the renovation of his utilization contract with the Commission in order; to avail of any provision of this amendatory Act which is more favorable to all applicant end-

> user than has heretofore been granted in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act, and the Commission may agree to such renovation on condition that the end-user shall voluntarily assume all the new obligations provided for in this amendatory Act. (Emphasis supplied.)

Under R.A. No. 1789 reparations goods obtained by private parties were subject to compensating tax since Section 14 exempted them only from customs duties, consular fees and special import tax. With its amendment by R.A. No. 3079, which took effect on June 17, 1961, reparations goods obtained by private parties were also exempted from compensating tax. An end-user who obtained reparations goods before the effectivity of R.A. No. 3079 may avail of the exemption if his utilization contract is renovated and he voluntarily assumes all the new obligations provided for in said law.

Interpreting the retroactive effect of this exemption, the Court, in Commissioner of Internal Revenue v. Botelho Shipping Corp. [G.R. Nos. L-21633-34, June 29, 1967, 20 SCRA 487] stated:

> It is true that Republic Act No. 3079 does not explicitly declare that those who purchased reparations goods prior to June 17, 1961 (the effectivity date of R.A. No. 3079), are exempt from the compensating tax. It does not say so, because they do not really enjoy such exemption, unless they comply with the proviso in Section 20 of said Act, by applying for the renovation of their respective utilization contracts, "in order to avail of any provision of the amendatory Act which is more favorable" to the applicant. In other words, it is manifest, from the language of said Section 20, that the same intended to give such buyers the opportunity to be treated "in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act." Like the "most-favored-nation clause" in international agreements, the aforementioned Section 20 thus seeks, not to discriminate or to create an exemption or exception, but to abolish the discrimination, exemption or exception that would otherwise result, in favor of the end-user who bought after June 17, 1961 and against one who bought

> prior thereto. Indeed, it is difficult to find a substantial justification for the distinction between the one and the other.
>
> The interpretation given Section 20 in relation to Section 14 was reiterated by the Court in Commissioner of Internal Revenue v. Philippine Ace Lines, Inc. [G.R. Nos. L-20960-61, October 31, 1968, 25 SCRA 912.]

The Memorandum of Agreement, dated February 15, 1975, which restructured petitioner's delinquent account, was executed by petitioner and the Reparations Commission pursuant to P.D. No. 332, which amends R.A. No. 1789. The pertinent provision of P.D. No. 332 provides:

> Sec. 8. To section 12 of the same Act, there are hereby added paragraphs (a-1) and (a-2) to read as follows:
>
> x x x
>
> (a-2) All private end-users with pending accounts with the Commission shall be allowed to restructure their accounts beyond the maximum allowable period of amortization as provided for under this Act; Provided, That said end-users shall first be required to pay 10% of the total accrued accounts at the time of the issuance of this Decree: Provided, further, that interest at the rate of 12 per cent per annum shall be imposed on the restructured yearly amortization with an additional monthly interest of 1-1/2 per cent for delinquency and said end-users shall be required to put up additional collaterals sufficient to cover the value of the restructured account, and in the case of corporations, the principal officers thereof shall be required to sign the contract of restructuring jointly and severally with the corporation: Provided, finally, That all delinquent private end-users of reparations goods and/or services are hereby given a period of three (3) months within which to restructure or update their accounts with the Commission.

That the Memorandum of Agreement was executed pursuant to P.D. No. 332 for the purpose of restructuring petitioner's delinquent account, and for no other purpose, is clear from the agreement's text:

> WHEREAS, under the Contract of Conditional Purchase and Sale of Reparations Goods and/or Services entered into by the herein parties and identified as Doc. No. 443, Page No. 90, Book No. 11, Series of 1960 and Doc. No. 479, Page No. 97, Book No: 11, Series of 1960 of the Notarial Registry of Atty. Jose V. Roldan, a Notary Public for and in the City of Manila, Philippines, the herein Conditional Vendee has a pending account with the herein Conditional Vendor as of November 9, 1973, in the total amount of FOUR MILLION ONE HUNDRED TWENTY-SIX THOUSAND SIX HUNDRED SIXTY-TWO PESOS AND NINETY CENTAVOS (P4,126,662.90).
>
> WHEREAS, the herein Conditional Vendee has manifested its desire to re-structure the said pending account pursuant to and in accordance with Section 12(a-2) of the Reparations Law, as lost amended by Presidential Decree No. 332;
>
> NOW, THEREFORE, for and in consideration of the foregoing premises, and by way of implementing the foregoing desire of herein Conditional Vendee to re-structure the said pending account, the herein parties have agreed to execute this MEMORANDUM OF AGREEMENT re-structuring the said pending account under the following terms and conditions. [Rollo, pp. 100-101; Emphasis supplied]

Petitioner, after its applications for the renovation of its original utilization contracts were denied, now contends that the Memorandum of Agreement was the renovated utilization contract contemplated by Section 20 of R.A. No. 3079. In support of this contention, petitioner adverts to the dispositive portion of the assailed resolution of the Court of Tax Appeals, which apparently recognizes that the Memorandum of Agreement was the renovated contract:

> Considering that the renovation of the contracts for the purchase of the vessels in question was made after the decision of this Court has already become final and executory. The motion to quash the writ of execution is hereby denied. [Rollo. p. 34; Emphasis supplied]

But was the Memorandum of Agreement really the renovated utilization contract contemplated by Sec. 20 of R.A. No. 3079?

The Court holds that it was not.

It may help to distinguish between renovation under R.A. No. 3079 and restructuring under P.D. No. 332 as to their purpose. Thus, while renovation is essential to availment of the benefits provided under R.A. No. 3079, among which is the exemption from the payment of compensating tax, restructuring under P.D. No. 332 is necessary in order to forestall the repossession by the Reparations Commission of the delinquent end-user's reparations goods and their sale at public auction.

In this connection, it must be recalled that the Reparations Commission had already denied twice the request by petitioner for the renovation of its utilization contract for the reason that the vessels were utilized for a purpose other than that authorized by the agreement. Apparently the vessels were used for interisland shipping when they should have been used for overseas shipping. It was for this failure to secure a renovation that the Court of Tax Appeals denied petitioner's petitions for review since there was no factual basis for the exemption claimed.

A review of the Memorandum of Agreement will reveal that it was in effect merely an amendment of the Contracts of Conditional Purchase and Sale, the original "utilization contracts", insofar as it restructured petitioner's delinquent account. It did not mention anything about, or even imply, a renovation under R.A. No. 3079.

While petitioner previously requested for renovation of its contract, after its denial and after the promulgation of P.D. No. 332, petitioner contended itself with requesting a restructuring of its account. It did not pursue the renovation of its contract, although it knew fully well that its renovation was the key to its availment of the exemption from the payment of compensating tax under Sec. 20 of R.A. No. 1789, as amended by R.A. No. 3079. Resort to the theory that the Memorandum of Agreement was the renovated contract required by

law as apparently made after all hope for the Reparation Commission's agreement to a renovation had vanished.

Although the Court had in previous cases enjoined the execution of a final and executory judgment because of a change in the situation of the parties that would render execution inequitable, such change in situation must be proven as a fact. In this case, no renovated utilization contract was actually executed as petitioner's request was denied by the Reparations Commission. Thus, petitioner tried to prove its right to the exemption claimed by arguing that the Memorandum of Agreement may be considered as the renovated utilization contract required by law.

The highest considerations of public policy dictate that claims for tax exemption be carefully scrutinized. As consistently declared by the Court, "taxes are the lifeblood of the government and their prompt and certain availability is an imperious need" [Commissioner of Internal Revenue v. Pineda, G.R. No. L-22734, September 15, 1967, 21 SCRA 105; Vera v. Fernandez, G.R. No. L-31364, March 30, 1979, 89 SCRA 199; Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue, G.R. No. L-26911, January 27, 1981, 102 SCRA 246.] Consequently, the collection of taxes should not be enjoined except upon a clear showing of a right to an exemption. Unfortunately for petitioner, it had failed to pass this test. It had grasped at straws and espoused novel theories in an attempt to escape its tax liability, but all to no avail as the facts of the case afford them little support. In the end, the sovereign right of the State to tax its subjects must prevail.

In summary, as petitioner has failed to show that it was qualified to avail of the exemption, there was, therefore, no bar to the execution of the judgment of the Court of Tax Appeals ordering petitioner to pay the amounts of P122,322.99 and P123,951.50 as compensating tax on the two vessels. Accordingly, the Court of Tax Appeals did not err in denying petitioner's motion to quash the writ of execution.

WHEREFORE, in view of the foregoing, the petition is **DENIED** for lack of merit and the resolution of the Court of Tax Appeals dated August 4, 1975 in C.T.A. Cases Nos. 955 and 960 denying the

petitioner's motion to quash the writ of execution is hereby **AFFIRMED**.

SO ORDERED.

Fernan, Feliciano and Bidin, *JJ*., concur.
Gutierrez, Jr., *J*., on leave.