

101 Phil. 209

[ G. R. Nos. L-10123 and L-10355. April 26, 1957 ]

**GENARO URSAL, AS CITY ASSESSOR OF CEBU, PETITIONER, VS. COURT OF TAX APPEALS AND CONSUELO NOEL, RESPONDENTS.**

**D E C I S I O N**

**BENGZON, J.:**

In these two cases Genaro Ursal as City Assessor of Cebu challenges the correctness of the order of the Court of Tax Appeals dismissing Ms appeals to that body from two rulings of the Cebu Board of Assessment Appeals.

The record shows that said city assessors in the exercise of his powers assessed for taxation certain real properties of Consuelo Noel and Jesusa Samson in the City of Cebu, and that upon protest of the taxpayers, the Gebu Board of Assessment Appeals reduced the assessments. It also shows he took the matter to the Court of Tax Appeals insisting on his valuation; but said Court refused to entertain the appeal saying it was late, and, besides. The assessor had no personality to bring the matter before it under section 11 of Republic Act No. 1125, which reads as follows:

“SEC. 11. *Who may appeal effect of appeal.*—Any person, association or corporation adversely affected by a. decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.”

We share the view that the assessor had no personality to resort to the Court of Tax Appeals. The rulings of the Board of Assessment Appeals did not “adversely affect” him. At most it was the City of Cebu <sup>1</sup> that had been adversely affected in the sense that it could not thereafter collect higher realty taxes from, the above-mentioned property owners. His

opinion, it is true had been overruled; but the overruling inflicted no material damage upon him or his office. And the Court of Tax Appeals was not created to decide mere conflicts of opinion between administrative officers or agencies. Imagine an income tax examiner resorting to the Court of Tax

Appeals whenever the Collector of Internal Revenue modifies, or lower his assessment on the return, of a tax payer.

Republic Act No. 1125 creating the Court of Tax Appeals did not grant it blanket authority to decide any and all tax disputes. Defining such special court's jurisdiction, the Act necessarily limited its authority to those matters enumerated therein. In line with this idea we recently approved said court's order rejecting an appeal to it by Lopez & Sons from the decision of the Collector of Customs, because in our opinion its jurisdiction extended only to a review of the decisions of the *Commissioner* of Customs, as provided by the statute—and not to decisions of the *Collector of Customs*. (Lopez & Sons vs. The Court of Tax Appeals, 100 Phil., 850, 53 Off. Gaz., [10] 3065).

The appellant invites attention to the fact that the Court of Tax Appeals is the successor of the former Central Board of Tax Appeals created by Commonwealth Act No. 530 and of the Board of Tax Appeals established by Executive Order No. 401—A, and that said Commonwealth Act No. 530 (section 2) *explicitly authorized the city assessor* to appeal to the Central Board of Tax Appeals. Here is precisely another argument against his position: as Republic Act No. 1125 failed to reenact such *express permission*, it is deemed withheld.

Oversight could not have been the cause of such withholding, since there were proper grounds therefor: (a) discipline and command responsibility in the executive branches; and (b) instead of being another superior administrative agency as was the former Board of Tax Appeals <sup>2</sup> the Court of Tax Appeals as created by Republic Act No. 1125 is a part of the judicial system presumably to act only on protests of private persons adversely affected by the tax, custom, or assessment.

There is no merit to the contention that section 2 of Commonwealth Act No. 530 is still in force and justifies Ursal's appeal. Apart from the reasons already advanced, Republic Act No. 1125 is a complete law by itself and expressly enumerates the matters which the Court of Tax Appeals may consider; such enumeration excludes all others by implication, *Expressio unius est exclusio alterius*.

“parts of an original act which are omitted from the act as revised are to be considered as annulled and repealed, provided it clearly appears to have been the intention of the legislature to cover the whole subject by the revision.” (82 C. J. S. p. 501.)

Inasmuch as we agree to the appellant’s lack of personality before the Court of Tax Appeals, we find it unnecessary to review the question whether or not his appeal had been perfected in due time.

Wherefore, the challenge order is hereby affirmed.

*Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J, B. L., Endencia, and Felix, JJ., concur.*

---

<sup>1</sup> We do not now decide whether the City of Cebu may repudiate the acts of its own Board of Assessment Appeals by appeal to the Court of Tax Appeals.

<sup>2</sup> “to hear and decide administratively”. (Executive Order 401-A, series 1951)

---