

101 Phil. 630

[G. R. No. L-9193. May 29, 1957]

EUGENIO PÉREZ, PETITIONER, VS. COURT OF TAX APPEALS AND J. ANTONIO ARANETA, ACTING COLLECTOR OF INTERNAL REVENUE, RESPONDENTS.

D E C I S I O N

FELIX, J.:

This is a petition for certiorari filed by Eugenio Pérez to review a resolution of the Court of Tax Appeals dated April 15, 1955, denying petitioner's motion that he be allowed to present additional evidence after counsel for the Collector of Internal Revenue shall have rested his case. The facts of the case may be briefly stated as follows:

Petitioner Eugenio Pérez filed his income tax returns for the years 1946, 1947, 1948, 1949 and 1950 within the time prescribed by laws based on his declared income. On September 3, 1952, after an investigation conducted by an examiner of the Bureau of Internal Revenue, the respondent Collector demanded of said taxpayer the payment of P369,708.27, *inclusive* of surcharge and compromise, as deficiency income tax for the years 1946 to 1950. The taxpayer then requested that he be given full opportunity to present his side before the Conference Staff of the Bureau of Internal Revenue, which was granted, and as a result of which his income tax deficiency was reduced to P197,179.85, *exclusive* of surcharge and interests. Then the Collector of Internal Revenue required said petitioner to pay the same not later than February 28, 1954.

On March 18, 1954, after the taxpayer's motion to reconsider said decision was denied by the Collector of Internal Revenue, Eugenio Perez filed a petition for review of said assessment with the defunct Board of Tax Appeals, which was docketed as Case No. BTA 189, but pursuant to Section 21 of Republic Act No. 1125, the Court of Tax Appeals took cognizance of the case. In that instance, the parties entered into an agreed stipulation of facts, with reservation to present further or additional evidence, which was duly approved by the Court of Tax Appeals on August 23, 1954, and in accordance therewith, petitioner

presented expert witnesses and documentary-evidence in support of his petition. Inasmuch as petitioner was at that time confined at the Johns Hopkins Hospital in Baltimore, Maryland, U.S.A., where he was undergoing treatment, and as counsel for said petitioner wanted to get his deposition to be submitted as part of the oral evidence, the Court issued letters Rogatory on December 13, 1954, after the Collector of Internal Revenue had submitted written cross interrogatories. But before said written interrogatories could be served upon Petitioner, he left the hospital for the Philippines. Counsel for petitioner then orally manifested in open court that petitioner would be presented as a witness. Respondent was then proceeding with the presentation of his evidence, and during the hearing of January 19, 1955, due to the inability of respondent's witness to appear and in virtue of the fact that petitioner had already returned to the Philippines, counsel for respondent manifested that they would continue with the presentation of his evidence after petitioner would have testified on his behalf, to which manifestation, counsel for petitioner offered no objection.

At the hearing of March 22, 1955, after the case had been postponed several times at the request of petitioner, the latter's counsel moved that he be allowed to present his additional evidence after respondent rests his case. The lower Court denied this verbal motion in a resolution dated April 15, 1955, on the ground that to allow the prayer of counsel for petitioner would be most irregular and would create confusion in the proceedings; that it would not prejudice the interest of petitioner if he would be allowed to testify in his behalf as agreed upon by the parties, to be recalled later as rebuttal witness after respondent were through with the presentation of his evidence in chief; that there exists the presumption of regularity in favor of respondent's deficiency tax assessment against petitioner and the burden of proving the same to be illegal lies in the latter; and that although the Court of Tax Appeals is not required to follow strictly the technical rules of procedure, such discretion would not be exercised by the Court if it would unnecessarily prolong the case instead of expediting its early adjudication. A motion for the reconsideration of said ruling filed by petitioner on April 28, 1955, having been denied, petitioner filed the present action and in this instance alleged that the Court of Tax Appeals erred:

1. In holding that the petitioner is a party plaintiff and ordering him to open and close the case at the trial for the review of the deficiency income tax assessments of the respondent Collector Internal Revenue against the petitioner despite the fact that said assessments were made after the lapse of the three (3) years prescriptive period fixed by Section 51 (*d*) of the National Interns Revenue Code;

2. In not ordering the respondent Collector of Internal Revenue as party plaintiff to open and close the case at the trial despite the fact that the latter, merely to justify his deficiency income tax assessments which have already prescribed, alleged that the petitioner committed fraud in filing his income tax returns which the law presumes *prima facie* correct; and
3. In allowing the respondent Collector of Internal Revenue to discontinue, without resting his case, with the presentation of his evidence in chief, which he had already begun and almost completed, and in ordering the petitioner to testify in his behalf and present his evidence in chief, if he so desires, and close his case first before said respondent Collector of Internal Revenue would resume the presentation of his evidence in chief and rest his case.

Within the period for the filing of respondents' brief, the Solicitor General filed a motion to dismiss this action on the ground that the main issue, that is whether or not petitioner should be allowed to present additional evidence in chief after the respondent shall have rested his case, has become moot, because the parties have already closed their evidence and submitted the case for decision of the trial Court on October 19, 1955, by virtue of an agreed stipulation of fact which was admitted by the Court on November 10, 1955. Said motion to dismiss was opposed by petitioner for the reason, among others, that:

“The appeal interposed by petitioner does not cover only the issue of whether or not said petitioner should be allowed to present additional evidence in chief after the respondent shall have rested his case’ but includes the fundamental issue of who should open and close the case at the trial before the respondent Court of Tax Appeals covering deficiency income tax assessment of the respondent Collector of Internal Revenue made after the lapse of 3 years prescriptive period fixed by section 51-*d* of the National Internal Revenue Code; and which assessment could no longer be collected through the summary methods of distraint and levy; that this question raised in this appeal, has not as yet been decided by this Honorable Supreme Court”;

and by resolution of December 12, 1955, this Court ruled a the question raised by respondent will be acted upon when the case is decided on the merits.

The prayer of the petition for certiorari filed in this instance, reads as follows:

“PREMISES considered, it is respectfully prayed that this Honorable Supreme Court, in the interest of justice and to afford fair and equal opportunity to both parties to prove their case in appropriate and judicious proceedings, annul the resolution of respondent Court of Tax Appeals denying petitioner’s motion and issue an order directing the respondent Collector of Internal Revenue shall continue “with the presentation of his evidence in chief, which he has already begun, before petitioner testify in his behalf and rest his case”.

This being the only and *leit motiv* of the remedy sought for in this case, and even assuming that since October 19, 1955, when the parties herein submitted their case for decision of the lower court, this tribunal has not taken any action on the matter, for We have not been informed that any decision has been rendered thereon, it seems clear to Us that any other point that might have been raised in the course of the proceedings must be subordinated to the question of whether or not the lower court erred in denying the motion We have now under consideration. In this respect, there is no dispute that petitioner as well as the respondent Collector of Internal Revenue had already presented part of their respective evidence and the controversy is only circumscribed as to who of the parties should be the last to present evidence, the petitioner claiming that respondent Collector of Internal Revenue is in truth and in fact the “petitioner”, because he has the burden of proving his case against the petitioner herein and hence he (the Collector) should close his evidence ahead of the taxpayer, whereas said respondent claims otherwise. As there is no showing of any specific rules governing the presentation of evidence in the Court of Tax Appeals, the general rules of procedure concerning the order of trial outlined in the Rule of Court shall govern. Petitioner in this case assails the deficiency assessment made by the Collector of Internal Revenue; consequently, it is incumbent upon him to prove that said assessment is erroneous. The fact that the Court of Tax Appeals decided not to alter the ordinary order of trial does not militate against its ruling, for although it could have done so, its power to deviate from technical rules of evidence is discretionary and hence not subject to review by this Court. Aside from this fact, respondent Collector of Internal Revenue was able to show that the parties had already come to an understanding as to the evidence that was to be presented to the Court *a quo* and had agreed to and filed an amended stipulation of facts which was admitted by the trial court to which the case was submitted for decision. In such state of affairs the question of who, between the parties herein has the right to rest his case last becomes entirely moot, for a decision on this case would serve no purpose.

Wherefore, the Court hereby resolves to declare that the present recourse of certiorari filed

by petitioner Eugenio Pérez has become moot and to dismiss the petition, without pronouncement as to costs. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., and Endencia, JJ., concur.

Petition dismissed.

Date created: March 03, 2015