

****Title:**** Macario Lim Gaw, Jr. vs Commissioner of Internal Revenue

****Facts:****

- Macario Lim Gaw, Jr. acquired six parcels of land in November 2007 and four more parcels from April to June 2008, financing these through loans from Banco De Oro.
- An Agreement to Sell with Azure Corporation was made to transfer these properties to the yet-to-be-incorporated joint venture company, Eagle I Landholdings, Inc., and the conveyance was completed on July 11, 2008.
- Based on Revenue Memorandum Order No. 15-2003, Gaw requested tax liability computations from the BIR, leading to his payment of Capital Gains Tax and Documentary Stamp Tax as computed.
- Two years later, the Commissioner of Internal Revenue considered the properties ordinary assets instead of capital assets, warranting regular income tax and VAT, triggering tax evasion charges based on Sections 254 and 255 of the NIRC. Due to this reclassification and allegations, the Department of Justice filed two criminal informations against Gaw in the Court of Tax Appeals (CTA) as CTA Criminal Case Nos. O-206 and O-207.
- Gaw separately contested the 2007 and 2008 deficiency assessments by filing petitions for review. Confused about whether to file another appeal for 2008 or consider it within the pending criminal cases, Gaw sought clarification from CTA. The CTA ruled that the 2008 civil liabilities were deemed instituted in the consolidated criminal cases, leading Gaw to file a Petition for Review Ad Cautelam (petition filed as a precaution).
- The CTA acquitted Gaw in the criminal cases but directed the litigation of the civil aspect in a separate CTA Case No. 8503. A dispute arose regarding the jurisdiction of the CTA First Division due to Gaw's non-payment of filing fees for the Petition for Review Ad Cautelam leading to its dismissal. Gaw appealed the dismissal to the CTA En Banc, which affirmed the First Division's dismissal.

****Issues:****

1. Did the CTA err in dismissing CTA Case No. 8503 due to non-payment of docket fees?
2. Can the Supreme Court rule on the merit of the case considering the CTA's dismissal?
3. Is Gaw liable for the assessed tax deficiencies?

****Court's Decision:****

The Supreme Court partially granted Gaw's petition, holding:

1. ****Regarding Dismissal for Non-Payment of Docket Fees:**** The CTA En Banc erred in affirming the dismissal based on non-payment of docket fees. Gaw's Petition for Review Ad Cautelam was distinct from the criminal tax evasion cases and should have been treated

separately, requiring docket fees. However, Gaw's failure to pay due to the "zero filing fee" assessment and the confusion around it showed no intention to defraud, so the case shouldn't have been dismissed outright.

2. **Resolution on the Merits by the Supreme Court:** The Supreme Court declined to rule on the merits of CTA Case No. 8503, including the nature of the properties sold and the taxes due. It emphasized that delving into these issues would be inappropriate as factual determination is beyond its scope in a Petition for Review under Rule 45.

3. **Tax Liabilities:** The Supreme Court did not make a direct ruling on Gaw's liability for tax deficiencies, deeming it under the jurisdiction of the CTA to fully evaluate and make a determination. The case was remanded to the CTA First Division for further proceedings, with instructions to assess the correct docket fees and for Gaw to pay them.

Doctrine:

- The civil action for recovery of tax liabilities deemed instituted in criminal tax evasion cases pertains only to liabilities related directly to the crimes charged. Separate civil actions for tax assessment challenges have an independent procedural posture and require payment of docket fees.
- Technical rules of procedure should be adjusted to promote justice and prevent miscarriage thereof, particularly when procedural confusion does not stem from an intention to defraud.

Class Notes:

- **Jurisdictional Issue of Non-Payment of Docket Fees:** Courts acquire jurisdiction upon payment of prescribed fees. However, non-payment at filing doesn't auto-dismiss the case if fees are paid within a reasonable period without intent to defraud.
- **Separation of Criminal and Civil Tax Liabilities:** Criminal charges for tax evasion and civil proceedings for tax deficiency assessments are distinct, requiring separate filings and subject to specific procedural requirements.
- **Capital vs. Ordinary Assets:** Tax treatment varies significantly between capital and ordinary assets, with different rates and obligations for capital gains tax, regular income tax, and VAT. This classification impacts tax liability and is subject to the taxpayer's use and intention regarding the asset.

Historical Background:

This case illustrates the complexities and procedural nuances in Philippine tax law, especially regarding the distinctions between criminal and civil actions in tax cases. It also highlights the CTA's pivotal role in adjudicating tax disputes, reflecting the specialization

necessary for handling the intricacies of tax law and the need for a clear understanding of procedural requisites among taxpayers.