

MAMA B. CASTRO, PLAINTIFF AND APPELLANT, VS. SILVBRIO BLAQUERA, IN HIS CAPACITY AS ACTING COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLEE.

G. R. No. L-8429. February 28, 1957

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Of the several points raised by the appellant one is sufficient to dispose of this appeal: instead of deciding the case, she contends, the court should have transferred it to the Court of Tax Appeals.

On June 9, 1954 Maria B. Castro complained before the Manila court of first instance against the Collector of Internal Revenue because in order to satisfy war profits taxes and surcharges allegedly due from her amounting P3,593,950.78 the latter had caused the distraint and levy of certain lands and buildings registered in the name of Marvel Building Corporation, and was about to sell the same, at public auction. Denying liability for said taxes, she affirmed that, supposing she was liable, her liability had already been discharged with the previous forfeiture to the Government of her other realties whose actual value was P3,715,827.80.

Complainant therefore, asked that defendant and his agents be ordered to release the properties seized, and that a preliminary injunction issue to restrain the impending sale. She also asked for damages.

A preliminary injunction was issued on June 10, 1954.

On June 26, 1954, the Solicitor-General, for the defendant, filed a motion to dismiss the complaint and to lift the injunction alleging, among other defenses: (a) the pendency of another suit between the parties; (b) lack of authority of the court to impede the collection of taxes; (c) plaintiff's remedy was to pay the taxes, and thereafter to sue for recovery.

Plaintiff opposed the motion with a memorandum. Defendant replied with another memorandum, which plaintiff answered with a rejoinder. Thereafter on August 2, 1954, the court entered its order now under review, dismissing the complaint for lack of merit and dissolving the injunction. This appeal was consequently perfected in due time.

On June 16, 1954, Republic Act No. 1135, became effective. It gave the Court of Tax Appeals "exclusive appellate jurisdiction" to review "decisions of the Collector of Internal Revenue in cases involving disputed assessments * * * or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue," In its section 22 it directed clerks of courts of first instance to turn over to the Court of Tax Appeals for adjudication all cases "involving disputed assessment of Internal Revenue taxes * * * pending determination before such courts. This section and the law can only mean that as of June 16, 1954—before defendant moved to dismiss—courts of first instance lost all jurisdiction over the matters assigned to the Court of Tax Appeals by Republic Act No. 1125, including this litigation which involves a disputed assessment. The lower court should have remanded this case to the Court of Tax Appeals, instead of acting on the motion, to dismiss.

Replying to appellant's contention on the point, the appellee argues here that the controversy could not be referred to the Court of Tax Appeals because it involved a petition for injunction to stay proceedings to collect taxes, which is beyond the competence of that court. The argument must be overruled. In *Zulueta vs. Collector of Internal Revenue*, supra, p. 872 decided February 8, 1957 we held through Mr. Justice Felix, that the Court of Tax Appeals may in proper cases issue the writ of injunction to restrain a distraint and levy ordered by internal revenue officials to collect taxes under dispute.

Wherefore, the order of dismissal is hereby set aside, and the record will be remanded to the Court of Tax Appeals for disposition in accordance with law.

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

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