

**REPUBLIC OF THE PHILIPPINES AND THE COLLECTOR OF
INTERNAL REVENUE, PLAINTIFFS AND APPELLANTS, VS. DEMETRIO
MANJARES AND MANILA SURETY & FIDELITY CO. INC.,
DEFENDANTS AND APPELLEES.**

G.R. No. L-14789. November 30, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

In connection with the operation of his business for the years 1946 to 1949, defendant Demetrio Manjares failed to pay the corresponding taxes due to the Government, which on August 1, 1949, had been computed to be P1,920.73. On August 1, 1949, October 8, 1949 and October 17, 1949, the Collector of Internal Revenue sent demand letters to Manjares, which were ignored. The Collector, on October 6, 1950, issued a Warrant of Distrain and Levy upon the personal properties of defendant Manjares, to be applied to taxes due. Pursuant to the Distrain and Levy Warrant, the Municipal Treasurer of Laoag, Ilocos Norte, seized the personal properties of Manjares and announced their sale, at public auction. Before the scheduled public auction sale, and in order to prevent the sale of the properties seized, defendant Manjares offered to execute a bond. On November 15, 1950, defendant Manjares, as principal, and the Manila Surety & Fidelity Co., Inc., as surety, executed a bond in favor of the Philippine Government, the pertinent portion of which reads—

"* * * are hereby held and firmly bound unto the Republic of the Philippines the full sum of PESOS ONE THOUSAND NINE HUNDRED & TWENTY & 73/100 ONLY (P1,920.73), Philippine Currency, being the taxes due the Republic of the Philippines from the Principal for the period from 1946 to 1949, for the payment of which sum we hereby bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, by these presents:

"That the said PRINCIPAL and SURETY hereby promise and agree to pay the aforesaid obligation as follows:

1st payment, November 30, 1950

P500.00

2nd payment, December 31, 1950

350.00

3rd payment, January 31, 1951

350.00

4th payment, February 28, 1951

350.00

5th payment, March 31, 1951

370.73

Total

P1,920.73"

The same bond provided that in the event of failure on the part of the principal to pay the obligation or any of the installments, the entire amount became due and demandable. The bond was approved by the Collector of Internal Revenue and the personal properties of Manjares were turned to him. However, from the date of approval of the bond, until May 9, 1955, defendants Manjares and the Manila Surety have not paid a single centavo on the account, despite repeated demands made by the plaintiff upon them.

On May 9, 1955, the Assistant Provincial Fiscal of Ilocos Norte filed a complaint with the Justice of the Peace Court of Laoag, same province, for the recovery of the amount of the bond. On May 21, 1955, defendant Manjares filed his Answer and, after the usual admissions and denials, interposed the following Special Defenses, to wit:

"(a) That the claim of plaintiff of the sum of P1,920.73 from the defendant Demetrio Manjares he cannot see, by records of his alleged businesses, how he came to incur the taxes to the government of the said sum of money;

(b) That, if ever said defendant has any obligation would be an inconsequential amount, and yet lost by laches or by prescription."

Trial was subsequently conducted and on September 13, 1955, the Justice of the Peace Court rendered judgment,

the dispositive portion of which reads—

"WHEREFORE, the Court renders judgment sentencing the defendants jointly and severally to pay the Republic of the Philippines, thru the Collector of Internal Revenue the amount of P1,920.73 and the legal interest from November 30, 1950 until the amount is fully paid and to pay the costs."

Both defendants appealed to the Court of First Instance of Ilocos Norte. Manjares reproduced the Answer he filed with the JP Court. On November 16, 1955, plaintiff, thru the office of the Provincial Fiscal, presented a Motion to Declare Manila Surety in Default, which motion was granted on November 17, 1955. The Motion to Set Aside Order of Default with the Answer attached, presented by defendant Manila Surety on September 5, 1955, was likewise denied and the lower court ordered the Answer to be expunged from the records of the case. Defendant Manila Surety presented a Motion to reconsider the order upon various grounds, contending further that the plaintiff could not suffer any prejudice, inasmuch as it had not as yet presented evidence upon which a default judgment could be based. On November 15, 1956, the court a quo promulgated an Order, the pertinent portions of which recite—

"* * * This Court after carefully reading the reasons advanced by the counsel of the Manila Surety Company in their motion for reconsideration, still believes, and so holds, that the same lacks merit. The motion for reconsideration is therefore denied.

WHEREFORE, in view of the nature of this case which involves disputed assessment of Internal Revenue taxes, and pursuant to the provisions of Republic Act 1125, creating the Court of Tax Appeals, the Clerk of Court is hereby directed to certify and remand this case to the Court of Tax Appeals, Manila, for final disposition thereof".

Plaintiff presented a motion for reconsideration, with respect to the portion of the order remanding the case to the Court of Tax Appeals. The trial court found the motion to be well taken and set the case for hearing on the merits (Order of Dec. 22, 1956). Under date of March 13, 1957, defendant Manjares presented another motion to elevate the case to the Tax Court pursuant to a ruling of this Court in the Bislig Bay Lumber Co. vs. Provincial Government of Surigao, 100 Phil., 303; 52 Off. Gaz. [17] 7242. The Asst. Provincial Fiscal, in behalf of the plaintiff, on September 1, 1958, presented a memorandum, praying for judgment on the merits, it appearing that the complaint was based on an actionable document, which had not been denied under oath by the defendants. The court a quo, on September 5, 1958, handed down the following Order:

"In view of all the foregoing, as prayed for by the counsel for Demetrio Manjares, let this case be certified and forwarded to the Court of Tax Appeals pursuant to Section 22 in connection with Sec. 7, paragraph 1, of Republic Act No. 1125, which took effect on June 16, 1954."

The Office of the Provincial Fiscal moved for a reconsideration of the above Order alleging, in the main, that the CFI had jurisdiction over the case. The motion was denied, and the State took exception therefrom, contending before this Court that the lower court erred (1) in holding that it had no jurisdiction over the instant case, and (2) in remanding the case to the Court of Tax Appeals.

The dominant issue, therefore, is "which court has jurisdiction over the case at bar?"

The pertinent provisions of the law which have direct bearing to the case provide:

"Sec. 7. Jurisdiction.—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the

National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue:

* * * * *

Sec. 22. Pending cases to be remanded to Court.—All cases involving disputed assessments on Internal Revenue taxes or customs duties pending determination before the Court of First Instance shall be certified and remanded by the respective clerk of court to the Court of Tax Appeals for final disposition thereof." (Rep. Act No. 1125)'

A perusal of the above quoted provisions will readily show that the CTA has no jurisdiction over the case at bar. In the first place, no case involving disputed assessments was pending determination in the CFI on June 16, 1954, when Republic Act No. 1125 took effect. In the second place, the case no longer referred to a disputed assessment, but to the fulfillment of the terms of a bond. It will be recalled that appellee agreed to pay the tax due on installment basis and secured the payment thereof with a bond. With the execution of the bond, the appellee had undertaken an entirely new obligation.

"* * * The present actions by the government are for the forfeiture of the bonds in question. Although the subject matter of said bonds are internal revenue taxes, it cannot be denied that upon the execution of said bonds, the tax-payer, as principal and the bondsman, as surety, assumed a new and entirely distinct obligation and became subject to an entirely different kind of liability. Thus, it has been held:

'* * * The new liability was voluntary and contractual. It was in form a direct and primary obligation, not to pay a tax, but to pay the sum of \$12,635.00, defeasible only upon payment by the taxpayer of a certain amount, to be fixed by subsequent action of the Commissioner. * * * (McCaughn vs. Philadelphia Barge Co. 27 F. (2d) 628).'

* * * * *

The bonds under consideration are written contracts imposing rights and liabilities, according to the terms thereof. Since the principals and sureties failed to pay the liabilities in the manner and on the dates indicated in said bond, the right of the government to take court action for their forfeiture is clear. And these actions were filed in both cases, within the 10 years period from the accrual of the right of action.

Furthermore, to uphold the tax-payers' defense of prescription would in effect nullify their distinct and separate undertaking in the bonds, which were executed and filed by them to lighten the payment of their tax obligations. * * * * * (Rep. of the Phil. vs. Xavier Gun Trading & Luzon Surety and Tomas Dorego, et al., 114 Phil., 1039).

Under the authority of the ruling stated above, it does not matter whether originally appellee disputed the taxes or not. It is sufficient that a bond was executed to answer for said taxes. Action for the enforcement or performance of the obligations created by a bond, should be presented in the regular Courts.

The statute of limitations under the Tax Code does not, therefore, govern, but the Civil Code. And considering the fact that action "upon written contract" prescribe in ten (10) years (Art. 1144, Civil Code), that the bond in question was executed on November 15, 1950 and that the complaint was filed in the Justice of the Peace court in May 1955, the defense of prescription has no merit.

Wherefore, the Order remanding the case to the Court of Tax Appeals is hereby set aside, and another entered, returning the case to the court of origin for appropriate proceedings. No costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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