

THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ALFONSO B. CAMILLO, ASSISTANT REGIONAL DIRECTOR, BUREAU OF INTERNAL REVENUE, REVENUE REGION NO. 2, TUGUEGARAO, CAGAYAN, AND PONCI...*G.R. No. L-38197. August 23, 1978*

Ponente: FERNANDO, J.

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The Republic of the Philippines had to resort to this certiorari proceeding against respondent Judge Andres B. Plan of the Court of First Instance of Isabela, First Judicial District, as its plea for dismissal on jurisdictional ground of a complaint filed by private respondent Jose A. Africano was denied. Petitioner Republic could find no legal justification for such actuation - and rightly so. The matter involved in the suit before respondent Judge was an assessment in the amount of P13,403.94 by the then Collector of Internal Revenue, acting through his subordinates, by way of surcharge for logs cut by private respondent in excess of that authorized by his timber license.[1] Thereafter, there was a distraint and levy on real property of such taxpayer, followed by its sale at public auction.[2] It was at that juncture that private respondent filed in the sala of respondent Judge a complaint for the nullity of the surcharge, the warrant of distraint and levy, as well as the sale conducted.[3] As contended by petitioner Republic in an affirmative defense in the answer to the complaint, passed upon as a motion to dismiss, the respondent Judge was devoid of jurisdiction, which was properly vested in the Court of Tax Appeals.[4] Respondent Judge, however, ruled otherwise.[5] There was a motion for reconsideration.[6] Respondent Judge would not budge from his stand.[7] Hence, the filing of this certiorari petition.

From the above recital of the undisputed and relevant facts, the merit of the petition is rather apparent.

1. As far back as 1954, in *Good Day Trading v. Board of Tax Appeals*,[8] it was made clear that a judicial body, the Court of Tax Appeals,[9] was created with the same jurisdiction and function as respondent Board, which was held to have been illegally established.[10] To be more specific, the scope of its jurisdiction over Internal Revenue matters was defined thus: "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; * * *"[11] The appellate jurisdiction as thus conferred is exclusive. *Millarez v. Amparo*,[12] a 1955 decision, squarely so ruled. *Ollada v. Court of Tax Appeals*[13] emphasized the exclusive character of such jurisdiction as "the primordial purpose behind the approval of said Act by Congress." [14] Conformably to such a view, *Castro v. David*[15] decided that even a levy by the then Collector of Internal Revenue under the War Profits Tax Act was appealable not to an ordinary court but to the Court of Tax Appeals. The Court, in *Ledesma v. Court of Tax Appeals*, [16] went even so far as to affirm "that the main purpose of the enactment of Republic Act No. 1125, creating the Court of Tax Appeals, was not only to give said court exclusive appellate jurisdiction over disputed tax assessments, but also to transfer to its jurisdiction all

cases involving said assessments previously cognizable by Courts of First Instance, and even those already pending in said courts, * * *." [17] So it has been since then. [18] Petitioner Republic had a valid cause for complaint. Respondent Judge ought to have acceded to its plea for dismissal. He had no power to act in the premises.

2. While respondent Judge was utterly devoid of any legal basis in so acting, his lack of jurisdiction being clearly apparent, it may be going too far to impugn his bona fides. As set forth in his assailed order: "The Court is of the opinion that this Court has jurisdiction to dig into the merits of this case. It is a well-known principle that even if the government has the power to tax an individual, the taxes imposed should not be suffocating. This is not, however, a prejudgment." [19] It thus appeared that he was laboring under the impression that the assessment thus imposed, [20] thereafter followed by the distraint and levy on real property, [21] was oppressive in character. He was misled into believing that judicial power, through the ordinary courts, could come into play. There was clearly a failure on his part to grasp the implications of the constitutional prerogative of the then Congress of the Philippines not only to create inferior courts but to define their jurisdiction. [22] Respect for such a constitutional mandate ought to have cautioned respondent Judge therefore from refusing to grant the well-founded and legally impeccable plea for the dismissal of the complaint.

WHEREFORE, the writ of certiorari is granted, and the order of respondent Judge of December 3, 1973, denying the dismissal of the complaint, as well as his order of January 14, 1974, denying a motion for reconsideration, are nullified, set aside, and declared without force and effect. The temporary restraining order issued by this Court on February 15, 1974 is hereby made permanent. Civil Case No. 1178 entitled, Jose A. Africano v. Republic of the Philippines, et al., pending before the Court of First Instance of Isabela, First Judicial District, Branch II, is hereby dismissed. This decision is immediately executory. Costs against private respondent.

Barredo, Antonio, Aquino, and Santos, JJ., concur.

Concepcion, Jr., J., no part.

[1] Petition, Annex A.

[2] Ibid, Annexes B and C.

[3] Ibid, Annex D.

[4] Ibid, Annex E.

[5] Ibid, Annex F.

[6] Ibid, Annex G.

[7] Ibid, Annex H.

[8] 95 Phil. 569.

[9] Republic Act No. 1125 (1954).

[10] University of Santo Tomas v. Board of Tax Appeals, 93 Phil. 376 (1953).

[11] Republic Act No. 1125, Section 7, first paragraph.

[12] 97 Phil. 282.

[13] 99 Phil. 604 (1956).

[14] Ibid, 609. Cf. *Bislig Bay Lumber Co. v. Provincial Government of Surigao*, 100 Phil. 303 (1956).

[15] 100 Phil. 454. Cf. *Collector of Internal Revenue v. Zulueta*, 100 Phil. 872 (1957) and *Castro v. Blaquera*, 100 Phil. 981 (1957).

[16] 102 Phil. 931 (1958).

[17] Ibid, 934-935.

[18] Cf. *Blaquera v. Rodriguez*, 103 Phil. 267 (1958); *Blaquera v. Rodriguez*, 103 Phil. 335 (1958); *Blaquera v. Rodriguez*, 103 Phil. 511 (1958); *Republic v. Del Rosario*, 105 Phil. 277 (1959); *Hoa Hin v. David*, 105 Phil. 783 (1959); *Rodriguez v. Blaquera*, 109 Phil. 598 (1960); *Republic v. Dy Chay*, 111 Phil. 592 (1961); *Gancayco v. Collector of Internal Revenue*, 111 Phil. 598 (1961); *Republic v. Uy*, 111 Phil. 913 (1961); *San Juan v. Vasquez*, 113 Phil. 85 (1961); *Meralco v. Collector of Internal Revenue*, L-16759, Aug. 31, 1966, 17 SCRA 1018; *Board of Assessment Appeal v. Samar Mining Co.*, L-28034, Feb. 27, 1971, 37 SCRA 734; *Luna v. Pacis*, L-24237, March 31, 1971, 38 SCRA 189; *Gonzales v. Province of Iloilo*, L-24663, March 31, 1971, 38 SCRA 209; *Treasurer-Assessor v. University of the Philippines*, L-20550, April 30, 1971, 38 SCRA 509; *Pacis v. Geronimo*, L-24068, April 23, 1974, 56 SCRA 583.

[19] Petition, Annex F.

[20] Ibid, Annex A.

[21] Ibid, Annex B.

[22] Article VIII, Section 1 of the 1935 Constitution, in force when Republic Act No. 1125 was enacted, provided that inferior courts "may be established by law." The next section is quite explicit: "The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts;" although it could not deprive the Supreme Court of its minimum appellate jurisdiction. The present Constitution embodies such provision in the first section of Article X: "The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law. The National Assembly shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section five hereof."

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