

SATURNINO DAVID, IN HIS CAPACITY AS COLLECTOR OF INTERNAL REVENUE, PETITIONER VS. THE HONORABLE SIMEON RAMOS, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AN...

G. R. No. L-4300. October 31, 1951

Ponente: JUGO, J.

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JUGO, J.:

This is a petition for certiorari, prohibition, and injunction.

The facts of this case may be briefly stated as follows:

The respondent Maria B. Castro filed in the Court of First Instance of Manila, a complaint dated October 18, 1950, against Saturnino David, petitioner herein, in his capacity as Collector of Internal Revenue, alleging among things, that she had been acquitted in a criminal case for non-payment of the war profits tax for insufficiency of evidence; that notwithstanding said acquittal, the Collector of Internal Revenue announced on October 18, 1950, that the properties of Maria B. Castro would be sold at public auction on November 22 and 27, 1950, to satisfy the war profits tax assessed against her; that this sale is an abuse of authority on the part of the Collector and would cause irreparable injury to her; that Republic Act No. 55, known as the War Profits Tax Law is unconstitutional. She prayed that a preliminary injunction be issued enjoining the Collector of Internal Revenue from proceeding with the sale and that afterward the injunction be made permanent.

The Collector of Internal Revenue filed his answer in the Court of First Instance of Manila specifically admitting some of the allegations in the complaint and denying others, and alleged as special defenses that the Court of First Instance had no jurisdiction to entertain the complaint nor to issue a temporary or permanent writ of injunction to restrain the collection of the war profits tax; that the plaintiff Maria B. Castro had an adequate remedy by first paying the tax and suing for its recovery; that the criminal case, No. 4976, was dismissed with the consent of the defendant; that the witness Felipe Aquino testified that a larger amount than that stated in the information in the criminal case was due from Maria B. Castro; and that there had been no *res judicata*.

When the trial began, the Collector of Internal Revenue through his counsel, objected to the reception of the evidence on the ground that the court had no jurisdiction to try the case.

The lower court entered an order dated November 8, 1950, declaring that the court had authority to proceed with the case, but denied the petition of Maria B. Castro for a preliminary injunction.

Inasmuch as no preliminary injunction was issued by the respondent court, the Collector of Internal Revenue, through his agents, proceeded with the distraint and levy and sale at public auction of the properties of Maria B. Castro, which has not been stopped up to the present.

Saturnino David, the Collector of Internal Revenue, now comes to this Court with the petition for certiorari,

prohibition, and injunction, alleging substantially the above facts, maintaining that the Court of First Instance has no jurisdiction to restrain the collection of taxes, the remedy being to pay and sue for recovery. The Collector prays for a preliminary injunction, pending the decision of this case, to restrain the respondent Judge from proceeding with the hearing of Civil Case No. 12356 of the Court of First Instance of Manila, above mentioned.

This Court issued the writ of preliminary injunction prayed for by the petitioner, and ordered the respondents to answer.

The respondents filed their answer specifically denying some allegations of the petition and admitting others, and maintaining in effect that the court below had jurisdiction to entertain the case. In a separate pleading, the respondent Maria B. Castro prayed that a preliminary injunction be issued against the Collector of Internal Revenue and his agents restraining them from proceeding with the distraint and levy and sale of her properties. This petition was denied by this Court.

The question to be determined in this case is whether the courts can restrain the collection of taxes on the ground that their validity is disputed by the taxpayer.

Section 9 of Republic Act No. 55, known as the War Profits Tax Law, reads as follows:

"SEC. 9. Administrative remedies.—All Administrative, special and general provisions of law including the laws in relation to the assessment, remission, collection and refund of national internal revenue taxes, not inconsistent with the provisions of this Act, are hereby extended and made applicable to all the provisions of this law, and to the tax herein imposed."

Section 305 of the National Internal Revenue Code, is as follows:

"SEC. 305. Injunction not available to restrain collection of tax.—No court shall have authority to grant an injunction to restrain the collection of any national internal-revenue tax, fee, or charge imposed by this Code."

It is clear that the word "tax," as used in said section 305) means a tax even if it is disputed by the taxpayer, for otherwise it would be sufficient to dispute a tax in order to take it out from the provisions of said section, rendering them practically nugatory.

Section 306 of the National Internal Revenue Code provides as follows:

"SEC. 306. Recovery of tax erroneously or illegally collected.—No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been

It has been the uniform holding of this Court that no suit for enjoining the collection of a tax, disputed or undisputed, can be brought, the remedy being to pay the tax first, formerly under protest and now without need of protest, file the claim with the Collector, and if he denies it, bring an action for recovery against him.

In the case of *Churchill vs. Rafferty* (32 Phil., 580, 583-584) it was held:

"In the first place, it has been suggested that section 139 does not apply to the tax in question because the section, in speaking of a "tax," means only legal taxes; and that an illegal tax (the one complained of) is not a tax. and, therefore, does not fall within the inhibition of the section, and may be restrained by injunction. There is no force in this suggestion. The inhibition applies to all internal revenue taxes imposed, or authorized to be imposed, by Act No. 2339. (*Snyder vs. Marks*, 109 U.S. 189.) And, furthermore, the mere fact that a tax is illegal, or that the law, by virtue of which it is imposed, is unconstitutional, does not authorize a court of equity

to restrain its collection by injunction. There must be a further showing that there are special circumstances which bring the case under some well recognized head of equity jurisprudence, such as that irreparable injury, multiplicity of suits, or a cloud upon title to real estate will result, and also that there is, as we have indicated, no adequate remedy at law. This is the settled law in the United States, even in the absence of statutory enactments such as sections 139 and 140. (Nannewinkle vs. Mayor, etc., of Georgetown, 82 U. S. W; Indiana Mfg. Co. vs. Koehne. 188 U. S. 681; Ohio Tax Cases, 232 U. S. 576, 587; Pittsburgh C. C. & St. L. R. Co. vs. Board of Public Works, 172 T.J. S. 32; Shelton vs. Platt, 139 U. S., 591; State Railroad Tax Cases, 92 U. S. 575.) Therefore, this branch of the case must be controlled by sections 139 and 1MO, unless the same be held unconstitutional, and consequently, null and void.

In the case of *Sarasola vs. Trinidad* W Phil., 252, 256-257) this Court said:

"* * * Thus, the Legislature of the State of Tennessee enacted a statute not greatly different from the Philippine statute, with the exception that the words, 'without interest,' were not included, and the United States Supreme Court in discussing the law said: 'This remedy is simple and effective, * * * It is a wise and reasonable precaution for the security of the government. No government could exist that permitted its collection to be delayed by every litigious man or every embarrassed man, to whom delay was more important than the payment of costs.' (State of Tennessee vs. Sneed [1877], 6 Otto, 69. See also 37 Cyc., 1267, 1268.) Again in the case of *Snyder vs. Marks* [1883], 109 U. S., 185) the sole object of the suit was to restrain the collection of a tax which was assessed under the United States Internal Revenue Laws. The court said: 'The remedy of a suit to recover back the tax after it is paid, is provided by statute, and a suit to recover back the tax after it is paid, is provided by statute, and a suit to restrain its collection is forbidden. The remedy so given is exclusive, and no other remedy can be substituted for it.'

It is said that the remedy by distraint and levy will cause irreparable injury to respondent for it may paralyze her business. The best answer to this contention is the remark of the Supreme Court in the case of *Sarasola vs. Trinidad*, supra, quoting Judge Colley, a recognized authority on the law of taxation:

" 'The force of the third contention must rest in the fact that enforcing the tax may in some cases compel the suspension of business, because it is more than the person taxed can afford to pay. But if this consideration is sufficient to justify the transfer of a controversy where money is demanded may be made the subject of equitable cognizance. To enforce against a dealer a promissory note may in some cases as effectually break up his business as to collect from him a tax of equal amount. This is not never recognized the consequences of the mere enforcement of a money demand as falling within the category.' *Youngblood vs. Sexton* [1875], 32 Mich., 406." (p.258)

In this case of *Lorenzo vs. Posadas* (64 Phil., 353, 371) this Court said:

"That taxes must be collected promptly is a policy deeply entrenched in our tax system. Thus, no court is allowed to grant injunction to restrain the collection of any internal revenue tax (sec. 1578, Revised Administrative Code: *Sarasola vs. Trinidad*, 40 Phil., 461.), this court had occasion to demonstrate trenchant adherence of this policy of the law. It held that 'the fact that on account of riots directed against the Chinese on October 18, 19, and 20, 1924, they were prevented from paying their internal revenue taxes on time and by mutual agreement closed their homes and stores and remained therein, does not authorize the Collector of Internal Revenue to extend the time prescribed for the payment of the taxes or to accept them without the additional penalty of twenty five per cent.' (Syllabus, No. 3.) * * * It is of the utmost importance,' said the Supreme Court of the United States, 1 ... that the modes adopted to enforce the taxes levied should be interfered with as little as possible. Any delay in the proceedings of the officers, upon whom the duty is devolved of collecting the taxes, may derange the operations of government, and thereby cause serious detriment to the public.' (*Dows vs. Chicago*, 11 Wall., 108; 20 Law. ed., 65, 66; *Churchill and Tait vs. Rafferty*, 32 Phil., 580.)"

It has been said that to prohibit the courts from issuing injunctions against the collection of taxes deprives them of part of their organic or constitutional jurisdiction. In the case of *Churchill vs. Rafferty*, supra, it was held:

"3. ID.; ID.; ID.; JURISDICTION OF COURTS.—Nor is such a provision of law invalid as curtailing the jurisdiction of the courts of the Philippine Islands as fixed by section 9 of the Organic Act: (a) because jurisdiction was never conferred upon Philippine courts to enjoin the collection of taxes imposed by the Philippine Commission; and (b) because, in the present case, another adequate remedy has been provided by payment and protest." (Syllabus, p. 580)

All the allegations of the respondents to the effect that the dismissal of the criminal case is *res judicata* or a bar to the collection by distraint and levy; and that Republic Act No. 55, known as the War Profits Tax Law, is unconstitutional, should be set forth as part of the cause of action in the complaint that may be filed against the Collector of Internal Revenue for recovery of the tax after its payment, but not in an action for prohibition or injunction.

The respondents cite some cases in the United States in which the principle that the collection of taxes should not be restrained by injunction has been found subject to certain exceptions. It would be too long to analyze those cases, but as an example, we may take the typical case found on pages 10 and 11 of the memorandum of the respondent. There it has been declared that:

"It has never held the rule to be absolute, but has repeatedly indicated that extraordinary and exceptional circumstances render its provisions inapplicable."

It has not been shown in the present case that extraordinary and exceptional circumstances exist so as to take this case out of the rule. It should be borne in mind that under the New Deal established by President Franklin D. Roosevelt in the United States, numerous cases have arisen regarding the validity of taxes in which extraordinary and exceptional circumstances have been found to exist. In the Philippines no extraordinary and exceptional circumstances of the magnitude of those occurring in the United States have existed. On the whole it is believed that we should not disrupt the regular procedure prescribed by our laws, as uniformly construed by our courts.

In view of the foregoing, the respondent Court of First Instance of Manila is declared without jurisdiction to proceed with the trial of Civil Case No. 12356 entitled "*Maria B. Castro vs. Saturnino David*," and its order dated November 8, 1950, in so far as it orders the continuation of the proceedings, is set aside. With costs against the respondents. It is so ordered.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason Reyes and Bautista Angelo, JJ., concur.

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