

**AUGUSTO BASA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES,
REPRESENTED BY THE SOLICITOR GENERAL, AND JUDGE
GUILLERMO F. VILLASOR, BRANCH XV, COURT OF FIRST INSTANCE
OF MANILA, R...**

G.R. No. L-45277. August 05, 1985

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/556ff8723cde/>

AQUINO, J.:

The issue in this case is whether the decision of the Court of First Instance of Manila (not the Tax Court) in an income tax case is reviewable by the Appellate Court or by this Court.

In a demand letter dated August 31, 1967, the Commissioner of Internal Revenue assessed against Augusto Basa deficiency income taxes for 1957 to 1960 totalling P16,353.12.[*]

As may be noted, the deficiencies were based on the taxpayer's failure to report in full his capital gains on the sales of land. This omission or underdeclaration of income justified the imposition of 50% surcharge.

The taxpayer did not contest the assessments in the Tax Court. The Commissioner's letter-decision on the case was dated December 6, 1974. On the assumption that the assessments had become final and incontestable, the Commissioner on September 3, 1975 sued the taxpayer in the Manila Court of First Instance for the collection of said amount:

The trial court in a decision dated April 20, 1976 affirmed the assessments and ordered Basa to pay P16,353.12 plus 5% surcharge and one percent monthly interest from August 31, 1967 to August 31, 1970.

Instead of appealing to this Court directly under Republic Act No. 5440, in relation to Rules 41 and 45 of the Rules of Court, since no factual issues are involved, Basa tried to appeal, to the Court of Appeals. He did not perfect his appeal within the reglementary period. The trial court dismissed it in its order dated October 1, 1976.

On December 23, 1976 Basa filed the instant special civil action of certiorari wherein he assailed the trial court's decision.

We hold that the petition is devoid of merit. The trial court acted within its jurisdiction in rendering its decision and dismissing Basa's appeal. He should have appealed to this Court. His failure to do so rendered the decision final and executory. He has no cause of action for certiorari.

The decision is correct. If he wanted to contest the assessments, he should have appealed to the Tax Court. Not having done so, he could not contest the same in the Court of First Instance.

The issue of prescription raised by him is baseless. The assessments were predicated on the fact that his income tax returns, if not fraudulent, were false because he underdeclared his income. In such a case, the deficiency assessments may be made within ten years after the discovery of the falsity or omission. The court action should

be instituted within five years after the assessment but this period is suspended during the time that the Commission is prohibited from instituting a court action.[**]

As explained in the Solicitor General's memorandum, Basa's requests for reinvestigation tolled the prescriptive period of five years within which court action may be brought (Commissioner of Internal Revenue vs. Capital Subdivision, Inc., 119 Phil. 1051; Collector of Internal Revenue vs. Suyoc Consolidated Mining Company, 104 Phil. 819). Moreover, the issue of prescription should have been raised in the Tax Court.

WHEREFORE, the trial court's judgment is affirmed. No costs.

SO ORDERED.

Makasiar, C.J., Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Abad Santos, J., did not take part.

[*]

90-AR-6805-67/57

Net income per return

P 6,982.03

Add: Under declaration of Capital Gain on Sale of Land:

Per investigation

P18,628.24

Per return

5,127.88

P13,500.36

Net income per investigation

P20,482.39

Less: personal and additional exemptions

6,000.00

Amount subject to tax

P 14,482.39

Tax due thereon

P 1,642.00

Less: Amount already assessed

29.00

Balance

P 1,613.00

Add: 50% surcharge

806.50

1/2% mo. int. from 6-20-59 to 6-20-62

P 290.34

TOTAL AMOUNT DUE AND COLLECTIBLE

P2,709.84

90-AR-8520-67/58

Net income per return

P 9,195.59

Add: Underdeclaration of capital gain on Sale of Land:

Per investigation

P27,925.61

Per return

8,225.00

P 21,700.61

Net income per investigation

P 30,896.20

Less: Personal and Additional Exemptions

P 6,000.00

Amount subject to tax

P 24,896.20

Tax due thereon .

3,697.00

Less: Amount already assessed

132.00

Balance

P 3,525.00

Add: 50% surcharge

P 1,762.50

1/2% mo. int. from 6-20-59 to 6-20-62

634.50

TOTAL AMOUNT DUE AND COLLECTIBLE

P 5,922.00

90-AR-313480-67/59

Net income per return

P 9,608.53

Add: Underdeclaration of capital gain on Sale of Land:

Per investigation

P22,878.32

Per return

8,200.00

14,678.32

Net income per investigation

P 24,286.85

Less: personal and additional exemptions

P 8,000.00

Amount subject to tax

P 16,286.85

Tax due thereon

P 2,589.00

Less: Amount already assessed

48.00

Balance

P 2,541.00

Add: 50% surcharge

1,270.50

1/2% mo. int. from 4-19-60 to 4-19-63

457.38

TOTAL AMOUNT DUE AND COLLECTIBLE

P 4,268.88

90-AR-32250-67/60

Net income per return

P 9,694.48

Add: Underdeclaration of capital gain on sale of land:

Per investigation

P18,281.03

Per return

5,700.00

P 12,581.03

Net income per investigation

P 22,275.51

Less: Personal and additional exemptions

P 8,000.00

Amount subject to tax

P 14,275.51

Tax due thereon

P 2,106.00

Less: Amount already assessed

51.00

Balance

2,055.00

Add: 50% surcharge

P 1,027.50

1/2% mo. int. from 4-18-61 to 4-18-64

P 369.90

TOTAL AMOUNT DUE AND COLLECTIBLE

P 3,452.40

GRAND TOTAL**P16,353.12**

=====

[**] "SEC. 332. Exceptions as to period of limitation of assessment and collection of taxes.— (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within ten years after the discovery of the falsity, fraud, or omission.

xxx xxx xxx

"(c) Where the assessment of any internal revenue tax has been made within the period of limitation above-prescribed such tax may be collected by distraint or levy or by a proceeding in court, but only if begun (1) within five years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner of Internal Revenue and the taxpayer before the expiration of such five-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

"SEC. 333. Suspension of running of statute.- The running of the statute of limitations provided in section three hundred thirty-one or three hundred thirty-two on the making of assessments and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner of Internal Revenue is prohibited from making the assessment or beginning distraint or levy a proceeding in court, and for sixty days thereafter."

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.