

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. VICTORIANO MEDRANO, SR., DEFENDANT AND APPELLEE.

G.R. No. L-15477. October 22, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

In the Oriental Mindoro Court of First Instance, in June 1958, the Republic of the Philippines filed against Victoriano Medrano, Sr., a complaint to recover the sums of P4,827.00 and P3,864.00 as deficiency income tax and-additional deficiency income tax for the year 1949, plus surcharge and interest.

The complaint alleged that on September 26, 1953, and October 29, 1954, the Collector of Internal Revenue had made the above assessments, notices of which were served upon defendant together with requests for payment thereof. Further alleging failure of defendant to contest the assessments before the Court of Tax Appeals in accordance with Republic Act No. 1125, and refusal to pay the same notwithstanding repeated demands, the complainant prayed for judgment with costs.

Instead of answering, the defendant submitted a motion to dismiss on the ground that the court had no jurisdiction, the matter being properly cognizable by the Court of Tax Appeals. Sustaining the motion, the court dismissed the case. After failing to convince the court to reconsider its order of dismissal, the plaintiff appealed in due time.

In view of our decision in *Republic vs. Del Rosario*, 105 Phil., 277; 57 Off. Gaz. (31) 5543, the instant appeal must be declared to be meritorious. That was a suit filed in the court of first instance of Manila to recover deficiency income tax assessed by the Collector of Internal Revenue, which became, final and enforceable because the Del Rosarios had failed to question such assessments before the Court of Tax Appeals. Upon motion of defendants, the court of first instance dismissed the complaint "without prejudice to its presentation to the Court of Tax Appeals." The Government appealed, contending that the Manila court had jurisdiction to adjudicate. We sustained such appeal. Holding the matter was not a disputed assessment cognizable by the Tax Appeals Court, we remanded the record to the Manila court for further proceedings. Paraphrasing the words of Mr. Justice Padilla, who wrote a unanimous decision, we may say: the case of the appellee does not come under sec. 7, Republic Act 1125 (jurisdiction of Tax Appeals Court) because he has not appealed from the assessment of the Collector of Internal Revenue. His failure thus to appeal made the assessment final and executory, and demandable. His refusal to pay it now does not render the assessment a disputable one for the Tax Appeals Court to adjudicate. (See also *Uy Ham vs. Republic*, G. R. L-13809, October 20, 1959.)

Accordingly, the dismissal order will be reversed and the record remanded to the court below for appropriate action. Costs against appellee.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Ordered reversed and record remanded to court below for proper action.

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