

D.N. ROQUE AND HIPOLITO BUGAOISAN, PETITIONERS, VS. HON. JUDGE JACINTO CALLANTA, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF ILOCOS NORTE, HERMINIA ALVAREZ, BENJA...

G.R. No. L-32391. April 29, 1987

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8eb7c1fd5030/>

This is a petition for review on certiorari, seeking the reversal of the decision of the Court of First Instance of Ilocos Norte[1] dated March 13, 1970 and of its Order dated April 8, 1970, both in Civil Case No. 4454-11 entitled "Herminia Alvarez, et al, v. D.N. Roque, et al."; the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered declaring null and void and of Personal Property, Exhibit "A" and the Warrant of Levy of Real Property, Exhibit "B" both dated December 12, 1968, and ordering the defendants to return to the plaintiffs the properties subject matter of the aforesaid warrants." (Annex "A", Brief of Petitioners).

The late Doroteo Alvarez, father of the herein private respondents, was assessed during his lifetime by the Bureau of Internal Revenue for fixed and percentage taxes and 25% surcharge in the amounts of P6,124.56 for the years 1957 and 1958 and P1,966.09 for the year 1959 or a total of P8,090.65, exclusive of compromise penalties, in letters of demand dated August 11, 1959 and February 16, 1961, respectively. On January 23, 1962, Doroteo Alvarez sent a letter to the Revenue Regional Director of Baguio City which reads:

"Pasuquin, Ilocos Norte
January 23, 1962

"Mr. Ricardo A. Rivera
Acting Regional Director
BIR Regional District No. 1
Baguio City

"SIR:

"In connection with your letter of February 16, 1961 which I received from my relative while working in Canlubang, Laguna only about the second week of this month, assessing the amount of P2,296.09 against me for independent contractor's tax, please be informed that the provisions of the harvesting contract executed between myself and the Canlubang Sugar Estate in relation to the actual field operations of the said Estate is now the subject of a case in ther Court of Tax Appeals entitled "Leon Balbas, et al. vs. The Commissioner of Internal Revenue " C.T.A. Case No. 951, wherein assessments made under the said contracts are disouted for being erroneous and contary to law.

It is therefore requested that pending the final outcome of the said C.T.A. Case No. 951, all assessments against me be held in abeyance. For this purpose, I will be willing to waive the right to invoke prescription.

"Thank you for your kind consideration.

"Very respectfully,

"DOROTEO ALVAREZ"

(Brief for Petitioners, p. 3).

Sometime in 1963 Doroteo Alvarez died intestate in Pasuquin, Ilocos Norte and was survived by his children and grandchildren. Meanwhile, C.T.A. Case No. 951 entitled "Leon Balbas, et al. v. The Commissioner of Internal Revenue" was decided adversely by the Court of Tax Appeals against the taxpayers. On appeal to the Supreme Court in G.R. No. L-19804, the decision of the lower court was affirmed in toto in a decision promulgated on October 23, 1967, holding the taxpayers liable for contractors' fixed and percentage taxes (Petitioners' Brief, pp. 3-4).

In order to safeguard the collection of the tax petitioner D.N. Roque in his capacity as Revenue Regional Director, Baguio City, issued on December 12, 1968, warrants of distraint and levy on the personal and real properties of the deceased taxpayer. In compliance therewith, petitioner Hipolilo Bugaoisah, B.I.R. Collection Agent, seized and levied on the aforesaid personal and real properties. The warrant of levy and notices of seizure of the personal and real properties of the deceased were served on Juana Bumanglag who was the common-law wife of the former (Ibid., p. 4).

On January 16, 1969, the herein respondent heirs filed with the Court of First Instance of Ilocos Norte, a complaint for Prohibition, Mandamus with Injunction docketed as Civil Case No. 4454-11, entitled "Herminia Alvarez, et al. v. Roque, et al.," assailing the validity of the warrant of distraint and levy issued by herein petitioner D.N. Roque and seeking to enjoin the scheduled sale of aforesaid properties.

On February 19, 1969, the herein petitioners filed with the lower court a motion to dismiss the complaint on the ground that the Court of First Instance had no jurisdiction to take cognizance of the case (Rollo, pp. 25-27) which motion was opposed by herein respondents on the ground that levy and seizure of personal property apply only to the right of the State to collect taxes from the taxpayer himself but not from strangers, like the respondents. (Rollo, pp. 28-29). The aforesaid case was given due course and respondent Judge rendered the assailed decision.

Hence, this petition.

In the resolution of August 20, 1970 (Rollo, p. 45) the petition was given due course. Respondents filed their answer on September 25, 1970 (Rollo, p. 47). Petitioners filed their brief on December 15, 1970 (Rollo, p. 59) while respondents filed their brief on March 24, 1971 (Rollo, p.69). Petitioners having failed to file their reply brief, the case was considered submitted for decision in the resolution of December 3, 1971 (Rollo, p. 77) without petitioners' reply brief.

In their brief, petitioners raise the following issues:

1. Whether or not the lower court has jurisdiction to take cognizance of the case filed by respondent-heirs;
2. Whether or not the right of the government to enforce the collection of the tax in this case has already prescribed; and
3. Whether or not the government may only enforce the collection of tax in this case by instituting the necessary judicial proceeding for the settlement of the state of the deceased taxpayer, in case the period to collect has not yet prescribed.

The main issue in this case is whether or not it is the Court of Tax Appeals or the Court of First Instance which has jurisdiction over the case at bar where the respondent heirs refuse to pay the assessed business taxes of their late father.

There appears to be no dispute that all matters pertaining to disputed assessments, refunds of internal revenue taxes, fees or other matter arising under the National Internal Revenue Code are within the exclusive jurisdiction of the Court of Tax Appeals and not of the Court of First Instance of Ilocos Norte, under Section 7 Republic Act No. 1125.

Respondents, however, insist that they filed a special civil action for prohibition with mandamus and injunction with the Court of First Instance of Ilocos Norte, not to question the legality of the tax assessments made by the BIR against their father, but to protect their propriety rights over the properties levied upon and seized which they cannot be deprived of, without due process of law. Thus, they argue that the proper remedy of the government as creditor of the estate of the late taxpayer is to file intestate proceedings in court for the settlement of the latter's estate. However such should have been done two years from July 3, 1964 when the taxpayer died (Brief for Respondents, pp. 3-8)".

This Court has already ruled in *Republic of the Philippines v. Medrano, Sr.* (109 Phil. 763-764 [1960]) that where the tax assessment is not at issue but the taxpayer's refusal to pay the tax due, the dispute is not for the Court of Tax Appeals to adjudicate. The case falls under the jurisdiction of the Court of First Instance (now Regional Trial Court).

Petitioner's admit that in the collection of delinquent taxes, they may pursue two civil remedies under Section 316 of the Tax Code: (a) the summary remedy of distraint and levy upon the properties of the taxpayer or (b) judicial action (Petitioners' Brief, pp. 10-11).

But there is merit in the findings of the trial court that under Section 332, paragraph (c) of the National Internal Revenue Code, the right of the government to collect a tax by distraint or levy in the case at bar has already prescribed.

The trial court ruled:

"x x x In the instant case, although the evidence on record fails to disclose the date of the assessments, it seems logical to presume that said assessments were made prior or coetaneous to Demands No. RO1-57858, dated August 11, 1959 and RO1-467-59 dated February 16, 1961. Reckoning from the dates of the aforesaid demands, it appears that when the warrants of Distraint, Exhibit "A", and the warrant of Levy, Exhibit "B", were issued on December 12, 1968, the five-year statutory limitation within which said warrants may be issued had already expired.

"Defendants' counsel, however, invited the attention of the Court to the letter of the late Doroteo Alvarez, Exhibit "1", addressed to the Acting Regional Director, BIR, Baguio City, dated January 23, 1962, and contend that by the said letter Doroteo Alvarez waived his right to invoke prescription in this case. The pretension is untenable. The letter refers to an assessment in the amount of P2,296.09 against him as independent contractor's tax, and its purpose was to request that said assessment against him be held in abeyance pending the final outcome of CTA Case No. 951. It does not refer to the assessments involved in this case, x x x."

In a long line of decisions, the Supreme Court has established that a warrant of distraint and levy issued beyond that period is void (*Rep. of the Phil. v. Ledesma*, 125 SCRA 857; *Collector v. Avelino*, 100 Phil. 327; *Collector v. Reyes*, 100 Phil. 822; *Collector v. Zulueta*, 100 Phil. 827; *Sembrano v. C.T.A.*, 101 Phil. 1; *Collector v. Aznar*, 102 Phil. 979; *Collector v. Collector*, G.R. No. L-13325, April 20, 1961.).

The period prescribed constitutes a limitation to the right of the Government to enforce the collection of taxes by summary proceedings of distraint and levy, though it could proceed to recover the taxes due by the institution of the corresponding action. In fact, taxes may be collected either by distraint or by judicial action (*Rep. of the Phil. v. Leclesma*, *supra*).

PREMISES CONSIDERED, the Court resolved to AFFIRM the decision of the Court of First Instance of Ilocos Norte and Laoag City and to DISMISS this petition.

Fernan (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortez, JJ., concur.

[1] Penned by Judge Jacinto Callanta.

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.