

REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. PEDRO B. PATANAO, DEFENDANT-APPELLEE.*G.R. No. L-22356. July 21, 1967*

Ponente: ANGELES, J.

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This is an appeal from an order of the Court of First Instance of Agusan in civil case No. 925, dis-missing plaintiff's complaint so far as concerns the collection of deficiency income taxes for the years 1951, 1953 and 1954 and additional residence taxes for 1951 and 1952, and requiring the defendant to file his answer with respect to deficiency income tax for 1955 and residence taxes for 1953-1955.

In the complaint filed by the Republic of the Philippines, through the Solicitor General, against Pedro B. Patanao, it is alleged that defendant was the holder of an ordinary timber license with concession at Esperanza, Agusan, and as such was engaged in the business of producing logs and lumber for sale during the years 1951-1955; that defendant failed to file in-come tax returns for 1953 and 1954, and although he filed income tax returns for 1951, 1952 and 1955, the same were false and fraudulent because he did not report substantial income earned by him from his business; that in an examination conducted by the Bureau of Internal Revenue on defendant's income and expenses for 1951-1955, it was ascertained that the sum of P79,892.75, represent-ing deficiency income taxes and additional residence taxes for the aforesaid years, is due from defendant; that on February 14, 1958, plaintiff, through the Deputy Commis-sioner of Internal Revenue, sent a letter of demand with enclosed income tax assessment to the defendant requiring him to pay the said amount; that notwithstanding repeated demands the defendant refused, failed and neglected to pay said taxes; and that the assessment for the payment of the taxes in question has become final, executory and demandable, because it was not contested before the Court of Tax Appeals in accordance with the provisions of section 11 of Republic Act No. 1125.

Defendant moved to dismiss the complaint on two grounds, namely: (1) that the action is barred by prior judgment, defendant having been acquitted in criminal cases Nos. 2089 and 2090 of the same court, which were prosecutions for failure to file income tax returns and for nonpayment of income taxes; and (2) that the action has prescribed.

After considering the motion to dismiss, the oppo-sition thereto and the rejoinder to the opposition, the lower court entered the order appealed from, holding that the only cause of action left to the plaintiff in its com-plaint is the collection of the income tax due for the taxable year 1955 and the residence tax (Class B) for 1953, 1954 and 1955. A motion to reconsider said order was denied, whereupon plaintiff interposed the instant appeal, which was brought directly to this Court, the questions involved being purely legal.

The conclusion of the trial court, that the present action is barred by prior judgment, is anchored on the following rationale:

"There is no question that the de-fendant herein has been accused in Cri-minal Cases Nos. 2089 and 2090 of this Court for not filing his income tax re-turns and for non-payment of income taxes for the years 1953 and

1954. In both cases, he was acquitted. The rule in this jurisdiction is that the accused once acquitted is exempt from both criminal and civil responsibility because when a criminal action is instituted, civil action arising from the same offense is impliedly instituted unless the offended party expressly waives the civil action or reserves the right to file it separately. In the criminal cases abovementioned wherein the defendant was completely exonerated, there was no waiver or reservation to file a separate civil case so that the failure to obtain conviction on a charge of non-payment of income taxes is fatal to any civil action to collect the payment of said taxes."

Plaintiff-appellant assails the ruling as erroneous. Defendant-appellee on his part urges that it should be maintained.

In applying the principle underlying the civil liability of an offender under the Penal Code to a case involving the collection of taxes, the court quo fell into error. The two cases are circumscribed by factual premises which are diametrically opposed to each other, and are founded on entirely different philosophies. Under the Penal Code the civil liability is incurred by reason of the offender's criminal act. Stated differently, the criminal liability gives birth to the civil obligation such that generally, if one is not criminally liable under the Penal Code, he cannot become civilly liable thereunder. The situation under the income tax law is the exact opposite. Civil liability to pay taxes arises from the fact, for instance, that one has engaged himself in business, and not because of any criminal act committed by him. The criminal liability arises upon failure of the debtor to satisfy his civil obligation. The incongruity of the factual premises and foundation principles of the two cases is one of the reasons for not imposing civil indemnity on the criminal infractor of the income tax law. Another reason, of course, is found in the fact that while section 73 of the National Internal Revenue Code has provided the imposition of the penalty of imprisonment or fine, or both, for refusal or neglect to pay income tax or to make a return thereof, it failed to provide the collection of said tax in criminal proceedings. The only civil remedies provided for the collection of income tax, in Chapters I and II, Title IX of the Code and section 316 thereof, are distraint of goods, chattels, etc. or by judicial action, which remedies are generally exclusive in the absence of a contrary intent from the legislator. (People vs. Arnault, G. R. No. L-4288, November 20, 1952; People vs. Tierra, G. R. Nos. L-17177-17180, December 28, 1964) Considering that the Government cannot seek satisfaction of the taxpayer's civil liability in a criminal proceeding under the tax law or, otherwise stated, since the said civil liability is not deemed included in the criminal action, acquittal of the taxpayer in the criminal proceeding does not necessarily entail exoneration from his liability to pay the taxes. It is error to hold, as the lower court has held, that the judgment in the criminal cases Nos. 2089 and 2090 bars the action in the present case. The acquittal in the said criminal cases cannot operate to discharge defendant-appellee from the duty of paying the taxes which the law requires to be paid, since that duty is imposed by statute prior to and independently of any attempts by the taxpayer to evade payment. Said obligation is not a consequence of the felonious acts charged in the criminal proceeding, nor is it a mere civil liability arising from crime that could be wiped out by the judicial declaration of non-existence of the criminal acts charged. (Castro vs. The Collector of Internal Revenue, G. R. No. L-12174, April 20, 1962)

Regarding prescription of action, the lower court held that the cause of action on the deficiency income tax and residence tax for 1951 is barred because appellee's income tax return for 1951 was assessed by the Bureau of Internal Revenue only on February 14, 1958, or beyond the five-year period of limitation for assessment as provided in section 331 of the National Internal Revenue Code. Appellant contends that the applicable law is section 332(a) of the same Code under which a proceeding in court for the collection of the tax may be commenced without assessment at any time within 10 years from the discovery of the falsity, fraud or omission.

The complaint filed on December 7, 1962, alleges that the fraud in the appellee's income tax return for 1951, was discovered on February 14, 1958. By filing a motion to dismiss, appellee hypothetically admitted this

allegation as all the other averments in the complaint were so admitted. Hence, section 332(a) and not section 331 of the National Internal Revenue Code should determine whether or not the cause of action of deficiency income tax and residence tax for 1951 has prescribed. Applying the provisions of section 332(a), the appellant's action instituted in court on December 7, 1962 has not prescribed.

WHEREFORE, the order appealed from is hereby set aside. Let the records of this case be remanded to the court of origin for further proceedings. No pronouncement as to costs.

Reyes, JBL, Acting C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave of absence.

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