

**CECILIA TEODORO DAYRIT, TORIBIA TEODORO CASTANEDA,
PRUDENCIO J. TEODORO, FRANCISCO J. TEODORO, AND JOSEFINA
TEODORO TIONGSON, PETITIONERS, VS. THE HONORABLE
FERNANDO A. CRUZ, PR...**

G.R. No. L-39910. September 26, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The application of tax amnesty to the estate of the Teodoros is the issue in this case.

Petitioners are the legitimate children and heirs of the deceased spouses Marta J. Teodoro who died intestate on July 1, 1965 and Don Toribio Teodoro who died testate on August 30, 1965. Thereafter, the heirs of the deceased filed separate estate and inheritance tax returns for the estates of the late spouses with the Bureau of Internal Revenue.[*]

In the meantime, testate and intestate proceedings for the settlement of the decedents' estates were filed[1] by Cecilia Teodoro-Dayrit, one of the petitioners herein, in the then Court of First Instance of Caloocan City,**] Branch XII docketed as Special Proceedings No. C-113.[2] On August 14, 1968, said petitioner was appointed administratrix of the estate of Dona Marta and letters testamentary was issued in her favor as executrix of the restate of Don Toribio.

On August 9, 1972, the respondent Commissioner of Internal Revenue issued the following deficiency estate and inheritance tax assessments:[3]

Estate of Dona

Estate of Don

Marta

Toribio[***]

Estate Tax & penalties

P1,662,072.34

1,542,293.01

Inheritance Tax & interests

1,747,790.94

1,518,458.72

The aforementioned notice of deficiency assessments was received by petitioner Dayrit on August 14, 1972. In a letter dated October 7, 1972,[****] petitioners through counsel, asked for a reconsideration of the said assessments alleging that the same are contrary to law and not supported by sufficient evidence.[4] In the same letter, petitioners requested a period of thirty (30) days within which to submit their position paper in support of their claim.

Meanwhile, on October 16, 1972, Presidential Decree (P.D.) No. 23, entitled "Proclaiming Tax Amnesty Subject to Certain Conditions," was issued by then President Ferdinand E. Marcos, quoted hereunder as follows:

"x x x.

"1. In all cases of voluntary disclosure of previously untaxed income realized here or abroad by any taxpayer, natural or juridical, the collection of the income tax and penalties incident to nonpayment, as well as all criminal and civil liabilities under the National Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act or any other law applicable thereto, is hereby condoned and, in lieu thereof, a tax of TEN PERCENTUM (10%) on such previously untaxed income is hereby imposed, subject to the following conditions:

(a)

Such previously untaxed income must have been earned or realized prior to 1972;

(b)

The taxpayer must file a notice and return with the Commissioner of Internal Revenue on or before March 31, 1972 showing such previously untaxed income; x x x

2.

The tax imposed under Paragraph 1 hereof, shall be paid within the following period:

(a)

If the amount does not exceed P10,000.00 the tax must be paid at the time of the filing of notice and return but not later than March 31, 1973;

(b)

If the amount exceeds P10,000.00 the tax may be paid in two (2) installments, the first installment to be paid upon the filing of the notice and return but not later than March 31, 1973; and the second installment within three (3) months from the date of the filing of the return but not later than June 30, 1973. x x x."

On November 24, 1972, P.D. No. 67, was issued amending paragraphs 1 and 3 of P.D. No. 23, to read as follows:

"x x x.

"1. In all cases of voluntary disclosures of previously untaxed income and/or wealth such as earnings, receipts, gifts, bequests or any other acquisitions from any source whatsoever which are taxable under the National Internal Revenue Code, as amended, realized here or abroad by any taxpayer, natural or juridical; the collection of all internal revenue taxes including the increments or penalties or account of non-payment as well as all civil, criminal or administrative liabilities arising from or incident to such disclosures under the National Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service laws and regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation, are hereby condoned and, in lieu thereof, a tax of ten per centum (10%) on such previously untaxed income or wealth is hereby imposed, subject to the following conditions:

- Such previously untaxed income and/or wealth must have been earned or realized prior to 1972;
- The taxpayer must file a return with the Commissioner of Internal Revenue on or before March 31, 1973, showing such previously untaxed income and/or wealth; x x x."

In a tax return dated March 31, 1973, petitioner Cecilia Teodoro-Dayrit declared an additional amount of P3,655,595.78 as part of the estates of the Teodoro spouses, for additional valuation over and above the amount declared in the previous return for estates and inheritance taxes of the said late spouses.[5] The Bureau of Internal Revenue issued tax payment acceptance order nos. 1127185-86 and 1533011.[6] Pursuant to the aforesaid tax acceptance orders, the estates and heirs of the deceased spouses Teodoro paid the amounts of P5,000.00, P30,046.68 and P250,000.00 per official receipts nos. 73201, 774037 and 964467 dated April 2, 1973, July 17, 1973 and October 31, 1973, respectively,[7] amounting to a total of P285,046.68.

On March 14, 1974, respondent Commissioner of Internal Revenue filed a motion for Allowance of Claim against the estates of spouses Teodoro and for an order of payment of taxes in S.P. No. C-113 with the then Court of First Instance of Rizal, Branch XII, praying that petitioner Dayrit be ordered to pay the Bureau of Internal Revenue the sum of P6,470,396.81 plus surcharges and interest.[8] Petitioners filed two (2) separate oppositions alleging that the estate and inheritance taxes sought to be collected have already been settled in accordance with the provisions of P.D. No. 23, as amended by P.D. No. 67 and that at any rate, the assessments have not become final and executory.[9] In reply thereto, respondent Commissioner alleged that petitioners could not avail of the tax amnesty in view of the existence of a prior assessment.[10] Petitioners insisted that the tax amnesty could still be availed of invoking Section 4, BIR Revenue Regulation No. 8-72.[11]

On July 10, 1974, respondent Judge issued an order approving the claim of respondent Commissioner and directing the payment of the estate and inheritance taxes.[12] Dissatisfied with the decision, petitioners filed a motion for reconsideration[13] but it was denied[14] in an order dated September 30, 1974[*****].

Hence, the present petition.

Petitioners contend that respondent Judge acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction in granting the respondent Commissioner's claim for estate and inheritance taxes against the estates of the Teodoro spouses on the ground that due to the pendency of their motion for reconsideration of the deficiency assessments issued by the Commissioner, said tax assessments are not yet final and executory. Petitioners stressed that the absence of a decision on the disputed assessments was a bar against collection of taxes. Finally, petitioners insist that their act of filing an estate and inheritance tax return of a previously untaxed wealth of the estates entitles said estates to tax amnesty under P.D. No. 23, as amended by P.D. 67 and hence, it is an error to grant respondent Commissioner's claim for collection of estate and inheritance taxes.

On the other hand, respondent Commissioner contends that petitioners cannot avail of the tax amnesty in view of the prior existing assessments issued against the estates of the deceased spouses before the promulgation of P.D. No. 23. In support thereof, respondent cited Section 4 of Revenue Regulation No. 15-72, amending Section 4 of Regulation No. 8-12. Respondent Commissioner contends further that neither may petitioners' act of filing a return of a previously untaxed income or wealth in the amount of P3,655,595.98 entitle the estates to tax amnesty where petitioners failed to pay the 10% tax in full within the time frame required under P.D. No. 23, and that to allow petitioners to avail of the tax amnesty will render nugatory the provisions of P.D. No. 68. Moreover, said respondent argues that certiorari is not the proper remedy in that respondent Judge committed no grave abuse of discretion in allowing the claim for collection of taxes and that if at all, it was merely an error of judgment which can be corrected only on appeal, and in which case the reglementary period for the same has already prescribed.

The main issue in this petition is whether an estate may avail of tax amnesty under Presidential Decree No. 23 where there is already an existing assessment made prior to the issuance of the said decree on the basis of the submitted estate and inheritance tax returns by merely filing separate estate tax returns of an undeclared and untaxed income over and above the original amount of the estate declared.

Anent petitioners' claim that the tax assessments against the estates of the Teodoro spouses are not yet final, the court finds the claim untenable. In petitioners' motion for reconsideration of the aforementioned assessments, petitioners requested then Commissioner Misael P. Vera for a period of thirty (30) days from October 7, 1972 within which to submit a position paper that would embody their grounds for reconsideration. However, no position paper was ever filed.[15] Such failure to file a position paper may be construed as abandonment of the petitioners' request for reconsideration. The court notes that it took the respondent Commissioner a period of more than one (1) year and five (5) months, from October 7, 1972 to March 14, 1974, before finally instituting the action for collection. Under the circumstances of the case, the act of the Commissioner in filing an action for allowance of the claim for estate and inheritance taxes, may be considered as an outright denial of petitioners' request for reconsideration.

From the date of receipt of the copy of the Commissioner's letter for collection of estate and inheritance taxes against the estates of the late Teodoro spouses, petitioners must contest or dispute the same and, upon a denial thereof, the petitioners have a period of thirty (30) days within which to appeal the case to the Court of Tax Appeals.[16] This they failed to avail of.

Tax assessments made by tax examiners are presumed correct and made in good faith. A taxpayer has to prove otherwise.[17] Failure of the petitioners to appeal to the Court of Tax Appeals in due time made the assessments in question, final, executory and demandable.[18]

The petitioners' allegation that the Court of First Instance (CFI) lacks jurisdiction over the subject of the case is likewise untenable. The assessments having become final and executory, the CFI properly acquired jurisdiction.[19] Neither is there merit in petitioners' claim that the exclusive jurisdiction of the Court of Tax Appeals (CTA) applies in the case. The aforesaid exclusive jurisdiction of the CTA arises only in cases of disputed tax assessments.[20] As noted earlier, petitioners' letter dated October 7, 1972 asking for reconsideration of the questioned assessments cannot be considered as one disputing the assessments because petitioners failed to substantiate their claim that the deficiency assessments are contrary to law. Petitioners asked for a period of thirty (30) days within which to submit their position paper but they failed to submit the same nonetheless. Hence, petitioners' letter for a reconsideration of the assessments is nothing but a mere scrap of paper.

Petitioners' contention that the absence of a decision on their request for reconsideration of the assessments is a bar to granting the claim for collection is likewise without merit. In *Republic vs. Lim Tian Teng Sons & Co.*,

Inc.,[21] this Court had occasion to rule that a decision on a request for reinvestigation is not a condition precedent to the filing of an action for collection of taxes already assessed. This Court ruled that "nowhere in the Tax Code is the Collector of Internal Revenue required to rule first on a taxpayer's request for reconsideration before he can go to court for the purpose of collecting the tax assessed. On the contrary, Section 305 of the same Code withheld from all courts, except the Court of Tax Appeals under Republic Act No. 1125,[22] the authority to restrain the collection of any national internal revenue tax, fee or charge, thereby indicating the legislative policy to allow the Collector of Internal Revenue much latitude on the speedy and prompt collection of taxes."

Petitioners argue, however, that the Commissioner of Internal Revenue must first rule on the taxpayer's protest against tax assessment so as not to deprive the taxpayer of the remedy of appeal and that it is only from the receipt of the decision that the right to appeal to the Court of Tax Appeals should run, citing for the purpose *San Juan vs. Velasquez*[23] as well as *Commissioner of Internal Revenue vs. Gonzales*.[24]

The aforementioned cases are both not in point. In *San Juan*, the taxpayer concerned, through his accountant, disputed the assessments of income tax and deficiency income tax by adducing the reasons and explanations why said assessments of income tax were not due and owing from the taxpayer. Thus, it was therein ruled that having disputed the assessments at the opportune time, the Commissioner of Internal Revenue cannot ignore the disputed assessments by immediately bringing an action to collect. By the same token in *Commissioner of Internal Revenue vs. Gonzales*, the assessments of estate and inheritance taxes were disputed by the taxpayer by invoking prescription as a defense claiming that the assessments were made after the lapse of more than five (5) years.

Payment of taxes being admittedly a burden, taxpayers should not be left without any recourse when they feel aggrieved due to the erroneous and burdensome assessments made by a Bureau of Internal Revenue agent or by the Commissioner. Said right is vested upon adversely affected taxpayers under Republic Act No. 1125. It cannot be rendered nugatory through the Commissioner's act of immediately filing an action for collection without ruling beforehand on the disputed assessments.[25] However, the remedy of an aggrieved taxpayer is not without any limitation. A taxpayer's right to contest assessments, particularly the right to appeal to the Court of Tax Appeals, may be waived or lost as in this case.[26]

The requirement for the Commissioner to rule on disputed assessments before bringing an action for collection is applicable only in cases where the assessment was actually disputed, adducing reasons in support thereto. In the present case where the petitioners did not actually contest the assessments by stating the basis thereof, the respondent Commissioner need not rule on their request.

Taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents. We cannot tolerate taxpayers hampering expedient collection of taxes by their failure to act within a reasonable period. No government could exist if all litigants were permitted to delay the collection of its taxes.[27] Thus, this Court ruled earlier that a suit for the collection of internal revenue taxes, as in this case, where the assessment has already become final and executory, the action to collect is akin to an action to enforce the judgment. No inquiry can be made therein as to the merits of the original case or the justness of the judgment relied upon.[28]

In view of the foregoing, discussions, petitioners' allegation of grave abuse of discretion on the part of the respondent judge must perforce fall. Considering further that the court a quo properly acquired jurisdiction over the subject matter of the case, petitioners should have appealed the case. The order of the court a quo dated September 30, 1974, was received by the petitioners on October 16, 1974. Petitioner should have appealed within a period of fifteen (15) days from receipt thereof but they failed to do so.[*****] As petitioners failed to file a timely appeal from the order of the trial court, they can no longer avail of the remedy of a special civil action for

certiorari in lieu of appeal. There is no error of jurisdiction committed by the trial court.[29]

On the other hand with respect the petitioners' plea that the estate is at any rate entitled to tax amnesty, a reading of P.D. No. 23[30], reveals that in order to avail of tax amnesty, it is required, among others, that there should be a voluntary disclosure of a previously untaxed income. This was the pronouncement of this Court in *Nepomuceno vs. Montecillo*[31] with respect to P.D. No. 370[32] which was decreed as a complement of P.D. Nos. 23 and 157. In addition thereto, said income must have been earned or realized prior to 1972 and the tax return must be filed on or before March 31, 1973. Considering that P.D. No. 23 was issued on October 16, 1972, the court rules that the said decree embraces only those income declared in pursuance thereof within the taxable year 1972. The time frame cannot be stretched to include declarations made prior to the issuance of the said decree or those made outside of the time frame as envisioned in the said decree. Thus, the estates of the Teodoro spouses which have been declared separately sometime in the 1960's are clearly outside the coverage of the tax amnesty provision.

Petitioners argue, however, that even if a notice of deficiency assessment had already been issued, the estates may still avail of tax amnesty if the basis of such deficiency assessment is either the failure to file a return or the omission of items of taxable income for a return already filed or the under declaration of said return, citing P.D. No. 67 and Section 4 of BIR Revenue Regulation No. 8-72.

There is no merit in this contention. Even if P.D. No. 67, as an amendment to P.D. 23, enlarges the coverage of tax amnesty to include wealth such as earnings, receipts, gifts, bequests or any other acquisitions from any source whatsoever, said decree reiterates the need of voluntary disclosure on the part of the taxpayer filing the return in order to avail of the tax amnesty. The only noticeable departure from P.D. No. 23 is the extension of the date for the filing of the return from March 31, 1972 to March 31, 1973. Thus, this Court finds that the same policy observed in the issuance of P.D. No. 23, governs P.D. No. 67. In addition thereto, it gives the tax evaders who failed to avail of the provisions of P.D. No. 23 a chance to reform themselves. An examination of both decrees does not show that taxpayers availing of the tax amnesty in accordance with P.D. No. 67, are entitled to blanket coverage of declarations made prior to the issuance of said decrees.

Petitioners argue that the estates of their parents declared for estate tax valuation sometime in the 1960's can avail of the tax amnesty when petitioners declared an additional amount of the estates over and above that which was previously declared. A reading of P.D. No. 67 reveals that tax amnesty is extendible only to those declarations made pursuant to said decree. Thus, if at all, it is only the estates in the amount of P3,655,595.78 declared pursuant to P.D. No. 67 that is covered, upon payment of 10% of the said amount within the period prescribed under P.D. No. 23, which was up to June 30, 1973. Considering that there has been partial compliance with the said requirement by the payment of P285,046.68, petitioner may claim the benefit of amnesty for said declared amount upon payment of the balance of 10% thereof required to be paid.

WHEREFORE, with the above modification of the questioned order of July 10, 1974, said order is hereby affirmed in all other respect. No pronouncement as to costs.

SO ORDERED.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.

Narvasa, J., no part.

[*] The date of filing of the returns does not appear in the record of the case, but appears to be before the issuance of P.D. No. 23, proclaiming tax amnesty.

[1] September 2, 1965.

[**] The deceased were both residents of Caloocan City.

[2] Entitled "In the Matter of the Estate of the Spouses Don Toribio Teodoro, Testamentary & Dona Marta J. Teodoro, Intestate."

[3] Page 22, Rollo, Annex B, Petition.

[***] After due investigation, the BIR found that the late spouses have a total conjugal estate of P20,374,634.24 with Dona Marta leaving a net taxable estate of P7,633,897.11 while Don Toribio with a net taxable estate of P7,425,020.20.

[****] According to respondent Commissioner, said letter was received on October 9, 1972.

[4] Page 22, Rollo; Annex B, Petition.

[5] Page 23, Rollo; Annex C, Petition.

[6] Pages 24-26, Rollo; Annex D-D-2, Petition.

[7] Pages 27-29, Rollo; Annex E, Petition.

[8] Pages 30-31, Rollo.

[9] Pages 32-42, Rollo; Annex G to G-1.

[10] Pages 43-46, Rollo; Annex H.

[11] Pages 47-51, Rollo; Annex I.

[12] Pages 52-53, Rollo; Annex J.

[13] Pages 54-59, Rollo; Annex K.

[14] Page 75, Rollo; Annex N.

[*****] The order of denial was received by the petitioners on October 16, 1974 while the present petition for certiorari was filed on January 3, 1975.

[15] Page 96, Rollo; page 8, Comment of Respondent Commissioner of Internal Revenue.

[16] Commissioner of Internal Revenue v. Villa, 22 SCRA 3.

[17] CIR v. Construction Resources of Asia, Inc., 145 SCRA 671 (1986).

[18] Republic v. Manila Port Service, 12 SCRA 384 (1964).

[19] Yabes v. Flojo, 115 SCRA 278 (1982).

[20] Republic v. Plan, 84 SCRA 688 (1978).

[21] 16 SCRA 584 (1966).

[22] Act Creating the Court of Tax Appeals.

[23] 3 SCRA 93 (1961).

[24] 18 SCRA 754 (1966).

[25] San Juan v. Velasquez, supra.

[26] Republic v. Lim Tian Teng & Sons & Co., Inc. supra.

[27] Churchill & Tait v. Rafferty, 32 Phil. 580 (1932).

[28] Mambulao Lumber Co. v. Republic, 132 SCRA 1 (1984).

[*****] See footnote No. 14.

[29] Mabuhay Insurance & Guaranty, Inc. v. Court of Appeals, 32 SCRA 245 (1970).

[30] Supra.

[31] 118 SCRA 254 (1982).

[32] Entitled "Enlarging the Coverage of Tax Amnesty on Previously Untaxed Income and/or Wealth Subject to Certain Conditions."

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