

MARIA B. CASTRO, PLAINTIFF AND APPELLEE, VS. SATURNINO DAVID, IN HIS CAPACITY AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLEE. E. AWSO AND CO., INC., INTERVENOR AND APP...

G.R. No. L-8508. November 29, 1956

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal by the intervenor from an order of the Court of First Instance of Manila certifying and remanding civil case No. 15316 to the Court of Tax Appeals.

In her complaint the plaintiff avers that despite dismissal of the information filed against her in the Court of First Instance of Manila for violation of section 4 in connection with section 8 of Republic Act No. 55 (evasion of payment of war profits tax), the defendant Collector of Internal Revenue levied upon and distrained several of her properties to satisfy war profits tax and surcharges thereon in the amount of P3,593,950.78 allegedly due from her; announced their sale at public auction, at which no one offered to bid and, consequently, declared her said properties forfeited to the Government to satisfy its claim; that Republic Act No. 55, otherwise known as the War Profits Tax Law, being unconstitutional no tax may be validly assessed and levied thereunder and the forfeiture of her properties is null and void.

In his answer, the defendant denies that the plaintiff was acquitted of the charge of evasion of payment of war profits tax and absolved from the payment thereof, the truth being that the information filed against her was dismissed upon joint motion of the prosecution and the defendant therein; and alleges that such dismissal is not equivalent or does not amount to acquittal; that the levy upon, distraint and forfeiture to the Government of, the plaintiff's properties are legal and valid because in levying upon, distraining and forfeiting such properties he (the Collector) followed and complied with the procedure laid down by law; that Republic Act No. 55, otherwise known as the War Profits Tax Law is constitutional; and that he cannot be restrained from proceeding against the plaintiff's properties for the collection of unpaid war profits tax and surcharges thereon, invoking the rule laid down in the case of *David vs. Ramos*, 90 Phil., 251.

On 18 March 1954 *E. Awad & Company, Inc.*, moved for leave to intervene attaching to his motion a complaint-in-intervention wherein it alleges that Blocks Nos. 7, 8, 10, 12, 14 and 16 of the properties levied upon, distrained and forfeited to the Government belong to it and not to the plaintiff and prays for their recovery. The Court granted the leave prayed: for.

On 16 June 1954 the plaintiff answered the complaint-in-intervention admitting that only one-half of the properties claimed by the intervenor in its complaint-in-intervention belongs to it but not Block No. 12 which is her exclusive property.

On 17 September 1954 the Solicitor General moved that the case be certified and remanded to the Court of Tax

Appeals pursuant to section 22, in connection with section 7, paragraph 1, of Republic Act No. 1125, which took effect on 16 June 1954. The motion was objected to by the plaintiff and the intervenor.

On 25 September 1954 the Court granted the motion of the Solicitor General and certified and remanded the case to the Court of Tax Appeals. The intervenor appealed.

Section 22, Republic Act No. 1125, provides:

All cases involving disputed assessment of Internal Revenue taxes or customs duties pending determination before the Court of First Instance shall be certified and remanded by the respective clerk of court to the Court of Tax Appeals for final disposition thereof.

Section 7, paragraph (1), of the same Act, provides:

The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue.

The plaintiff assails the legality of the levy upon and distraint of her properties made by the defendant Collector of Internal Revenue for non-payment of war profits tax and surcharges thereon, and seeks to nullify the forfeiture thereof to the Government when no one offered to bid at the public auction sale. Taking into consideration the fact that all assessments of war profits tax shall be made by the Collector of Internal Revenue,[1] and that—

All administrative, special and general provisions of law including the laws in relation to the assessment, remission, collection and refund of national internal revenue taxes, not inconsistent with the provisions of this Act, are hereby extended and made applicable to all the provisions of this law, and to the tax herein imposed,[2] the inescapable conclusion is that, the Court of Tax Appeals has the exclusive jurisdiction to hear and decide the case.

The fact that there is a complaint-in-intervention filed in the Court of First Instance, while the case was there pending before the passage of Republic Act No. 1126, where the intervenor seeks to recover its properties registered in the name of the plaintiff alleged to have been erroneously levied: upon and distrained by the defendant Collector of Internal Revenue and later on forfeited to the Government, does not vest in the Court of First Instance jurisdiction to hear and decide the case the cognizance of which is exclusively conferred upon the Court of Tax Appeals. The intervenor may ask for the dismissal of its complaint-in-intervention for the purpose of bringing an independent action in the proper competent court to recover its properties which were levied upon and distrained by the Collector and forfeited to the Government because they appeared registered in the name of the plaintiff, the delinquent taxpayer; or may pursue its remedy in the Court of Tax Appeals which is competent to pass upon the incidental Question of ownership to determine whether the properties levied upon and distrained by the Collector of Internal Revenue and forfeited to the Government for nonpayment of war profits tax, really belong to the delinquent taxpayer or to the intervenor. The determination of this point is incidental to the action brought by the plaintiff questioning the legality of the assessment and the law that authorized it. An intervention cannot alter the nature of the action and the issues joined by the original parties thereto.

The order appealed from is affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Montemayor, Bautista Angela, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1] Section 5, Rep. Act No. 55.

[2] Section 9, Rep. Act No. 55.

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