

CARLOS MORAN SISON AND PRISCILA F. SISON, PETITIONERS, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.*G.R. No. L-22480. June 30, 1971*

Ponente: DIZON, J.

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Appeal taken by the spouses Carlos Moran Sison and Priscila F. Sison from the resolution dated January 13, 1964 issued by the Court of Tax Appeals in its Case No. 337, (a) granting appellee's motion for execution of the judgment rendered by this Court in G.R. L-13739, entitled "The Commissioner of Internal Revenue vs. Carlos Moran Sison and Priscila F. Sison", and (b) denying their petition for the rendition of a decision "on the merits" in the case first mentioned.

It appears that on February 28, 1949, appellants made a written assignment in favor of a corporation named Priscila Estate, Inc. of several real properties which Mrs. Priscila F. Sison had previously acquired by donation. The consideration therefore were 672 shares of the capital stock of the assignee corporation, the deed of assignment further stating that the realties were transferred at their assessed value and that the shares of stock received by the assignors as consideration were of an equal value. Reporting such assignment, appellants subsequently claimed deductible losses in their Income Tax Return for 1949.

Pursuant to a Bureau of Internal Revenue rule governing transfers of property to a corporation in exchange for shares of its capital stock, internal revenue agents took the assignment under study and, as a result thereof, on June 23, 1952, the Collector imposed on appellants a deficiency income tax for 1949 in the amount of P41,101.53, holding the view that, as a result of the assignment, appellants had made a profit of P257,380.00. Contesting the assessment, appellants asked for a re-investigation of the matter. This was granted with the result that, on October 13, 1956, an amended assessment was issued against them only for the amount of P5,535.02. Appellants not only pro-tested against this amended assessment but they also denied the Collector's authority to make it on the ground that the five-year period of prescription had elapsed. Their protest having been overruled, appellants took the matter to the Court of Tax Appeals where, later on, a decision was rendered upholding their plea of prescription. In due time the Commissioner of Internal Revenue elevated the case on appeal to Us (G.R. L-13739).

On April 30, 1963, We reversed the decision of the Court of Tax Appeals by holding that the right of the government to assess and collect the deficiency income tax in question had not yet prescribed.

After the record of the case had been returned below, appellants filed a petition praying that a decision "on the merits" be rendered in the case (C.T.A. Case No. 337). Five days later appellee, in turn, filed a motion for the execution of our judgment in G.R. L-13739 based on the claim that said decision had already become final and executory. On January 13, 1964, the Court of Tax Appeals issued a resolution denying appellants' petition for the rendition of a decision on the merits, and granting appellee's motion for execution.

Appellant's lone assignment of error is discussed in their brief under the following propositions: (a) that our

decision in G.R. L-13739 cannot be executed because it is interlocutory in nature; (b) that since the dispositive part of our decision specifies no collectible amount, it cannot be executed; (c) that the Tax Court never lost jurisdiction to decide the case on the merits.

Appellants' other contention that our decision in G.R. L-13739 cannot be executed because it is interlocutory in nature and its dispositive part specifies no collectible amount, is without merit.

Insofar as the decision referred to disposed of the issue of prescription by reversing the order of dismissal issued by the Court of Tax Appeals, it was obviously final in character. It left no other substantial matter unresolved.

But appellants argue that upon the remanding of the case below, the Court of Tax Appeals was bound to set the case anew for hearing, relying upon the fact that said court did not pass upon the question of correctness of the deficiency tax assessment in question when it issued the order of dismissal subsequently reversed by this Court. We also find this to be without merit.

It is not denied that in the Court of Tax Appeals appellants questioned the validity of the deficiency tax imposed upon them. During the hearing of the case the court informed the parties that "the whole case on the question of prescription and on the merits" was the subject of said hearing. The government submitted evidence to sustain the validity of the questioned deficiency tax, while appellants refrained from doing the same "in the meantime while waiting for the resolution" of the court - presumably on the question of prescription. Thereupon one of the judges presiding the court gave ap-pellants' counsel this warning: "It is up to you if you want to take that chance." (t.s.n., p. 9; C.T.A. Record p. 115). Thereafter, the court dismissed the claim of the government on the ground that it had already pre-scribed. It is clear from the foregoing that the "chance" that appellants took was this: that if, on appeal, the decision of the Court of Tax Appeals was reversed - as it was in fact reversed - they would be deemed to have waived their right to present additional evidence on the question of the correctness of the deficiency tax. Stated otherwise, upon reversal, they would not be entitled to have the case set for hearing all over again in the Court of Tax Appeals in relation to the question aforesaid. This, indeed, must be the necessary consequence of their refusal or failure to present additional evidence during the original hearing. The practice of the courts is to try a case as a whole and not piece by piece, in order to avoid unnecessary delays.

In relation to the claim that the dispositive part of our decision in G.R. L-13739 specifies no collectible amount, the following are pertinent considerations.

Section 14 of Rep. Act 1125 which speaks of the "Effect of decision that tax is barred by Statute of Limitations," provides that if the decision of the court is that the tax is barred said decision "shall be considered as its decision that there is no deficiency in respect of such tax." Such being the rule the contrary must likewise be true, namely: that if the decision of the court is that the tax is not barred, such decision must be understood in the sense that there is deficiency in respect of such tax. In line with this, when in G.R. L-13739 We overruled therein appellee's claim for damages, We did so "not only because they took no appeal from the decision presently under review, but also because the collectors' actuation is herein sustained." Underlines supplied; Commissioner etc. vs. Sison, 7 SCRA pp. 884, 886). The collectors' contention involved in that case was precisely that herein petitioners were liable for a deficiency tax in the amount of P5,535.02.

PREMISES CONSIDERED, the resolution appealed from is affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur. Ruiz Castro and Fernando, JJ., took no part.

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