

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
FERMIN ABELLA, DEFENDANT-APPELLEE.***G.R. No. L-26989. February 20, 1981*

Ponente: FERNANDO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f099d7a3194b/>**FERNANDO, C.J.:**

There would have been no need for this appeal had the City Court of Davao and thereafter the Court of First Instance applied the correct rule of law. The suit started with the Republic filing a money claim based on a judgment that had become final in view of the failure of appellee Fermin Abella to elevate to the Court of Tax Appeals an assessment levied against him. Nonetheless, both the City Court of Davao and thereafter the Court of First Instance, unmindful of the lack of jurisdiction, dismissed the complaint. Hence, this appeal from the decision of the latter court by the Republic, assigning as the principal error the failure to accord respect to the limits of its competence. The Court of First Instance instead of reversing the City Court affirmed a judgment bereft of support in law. The brief for the Republic setting forth the undisputed fact as to the date of the deficiency assessment and when it was received as well as the applicable law renders clear why this appeal is meritorious. Thus: "Section 11 of Republic Act No. 1125 provides as follows: 'Sec. 11. Who may appeal; effect of appeal. - Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, the Collector (Commissioner) of Customs or any provincial or City Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.' In the present case, the parties have agreed that the deficiency assessment dated November 13, 1956 was received by the defendant on the same date (pp. 43-44, Record on Appeal) and that the defendant did not bring any appeal to the Court of Tax Appeals within 30 days from receipt of the said assessment (p. 44, Record on Appeal). His failure to appeal the assessment to the said court rendered the same incontestable, final and executory in accordance with the provisions of Sections 7 and 11 of Republic Act 1125." [1] Hence, to quote further from such brief, "as a necessary consequence of the fact that the assessment herein has already become final, executory and demandable it must likewise follow that no defense raised by the defendant taxpayer which tends to question the assessment involved should be entertained by the trial courts." [2]

A reversal is called for. The appeal is meritorious.

1. It is equally undisputed that the law on the matter negates any claim to correctness of the decision both by the City Court of Davao and thereafter the Court of First Instance. A recent enunciation of the doctrine is found in *Republic v. Plan*. [3] It is worded thus: "As far back as 1954, in *Good Day Trading v. Board of Tax Appeals*, it made clear that a judicial body, the Court of Tax Appeals, was created with the same jurisdiction and function as respondent Board, which was held to have been illegally established. To be more specific, the scope of its jurisdiction over Internal Revenue matters was defined thus: '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 appellate jurisdiction as thus conferred is exclusive. *Millarez v. Amparo*, a 1955 decision, squarely so ruled. *Ollada v. Court of Tax Appeals* emphasized the exclusive character of such jurisdiction as 'the primordial purpose behind the approval of said Act by Congress.' Conformably to such a view, *Castro v. David* decided that even a levy by the then Collector of Internal Revenue under the War Profits Tax Act was appealable not to an ordinary court but to the Court of Tax Appeals. The Court, in *Ledesma v. Court of Tax Appeals*, went even so far as to affirm 'that the main purpose of the enactment of Republic Act No. 1125, creating the Court of Tax Appeals, was not only to give said court exclusive appellate jurisdiction over disputed tax assessments, but also to transfer to its jurisdiction all cases involving said assessments previously cognizable by Courts of First Instance, and even those already pending in said courts. * * *.' So it has been since then. Petitioner Republic had a valid cause for complaint. Respondent Judge ought to have acceded to its plea for dismissal. He had no power to act in the premises." [4]

WHEREFORE, the appealed decision is reversed and the defendant ordered to pay the sum of P4,000.50 as deficiency income tax for 1950, inclusive of the 50% surcharge, plus the 5% surcharge and 1% monthly interest thereon from November 29, 1956 to the date of payment, and the costs of this suit.

Aquino, Guerrero, Abad Santos and De Castro, JJ., concur.

Barredo, J., did not take part.

[1] Brief for the Plaintiff-Appellant, 6-7.

[2] *Ibid*, 7-8.

[3] L-38197, August 23, 1978, 84 SCRA 688.

[4] *Ibid*, 690-692. *Good Day* is reported in 95 Phil. 569; *Millarez* in 97 Phil. 282; *Ollada* in 99 Phil. 604; *Castro* in 100 Phil. 454; *Ledesma* in 102 Phil. 931 (1958). Nineteen other cases were cited in the opinion starting from *University of Santo Tomas v. Board of Tax Appeals*, 93 Phil. 376 (1953) to *Pacis v. Geronimo*, L-24068, April 23, 1974, 56 SCRA 383.

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.