

**LEON BALBAS, DONATO ABITONG, AND NEMESIO VALDEZ,
PETITIONERS, VS. MELECIO R. DOMINGO, COMMISSIONER OF
INTERNAL REVENUE, MANILA, RESPONDENT.**

G.R. No. L-19804. October 23, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

This petition for the review of a decision of the Court of Tax Appeals poses the legal question of whether or not a person who enters into a contract with a sugar cane plantation to recruit cane cutters and supervise their work during the harvest season, the contract expressly referring to him as a "contractor" is taxable under the National Internal Revenue Code,[1] as an independent contractor.

As noted in the decision sought to be reviewed, petitioners Balbas, Abitong and Valdez, on August 10, 1956, "individually executed contracts with the Canlubang Sugar Estate" (hereinafter referred to as Canlubang), designated as Harvest Contracts, from which they earned gross receipts. They were classified as independent contractors by the then Commissioner of Internal Revenue, respondent Domingo, who "assessed against and demanded from them the payment of the respective sums of P5,722.95, P4,715.90 and P6,818.70, as fixed and percentage taxes, surcharge and compromise penalties." [2] Petitioners questioned the validity of such assessments before the Court of Tax Appeals. Respondent Commissioner was sustained, petitioners being ordered to pay him the fixed and percentage taxes including 25% surcharges, but not the compromise penalties, petitioner Balbas, in the amount of P5,522.95, petitioner Abitong, P4,515.90 and petitioner Valdez, P6,618.70.

The decisive issue was briefly set forth in the decision of the Court of Tax Appeals thus: "The resolution of this case hinges upon the question whether petitioners are independent contractors. If in the affirmative, as contended by respondent, they are subject to the payment of fixed and percentage taxes in pursuance of Sections 182 and 191 of the Tax Code. Otherwise, or if they are merely employees, as is urged upon us, they are not thusly liable."

What are the facts as found by the Court of Tax Appeals? Under the contracts entered into between petitioners and Canlubang, "the former are obliged to recruit men, preferably natives of the Ilocos provinces, to harvest the cane of [Canlubang] in accordance with the harvest schedule to be provided by the latter which reserves the right to change the same at any time." [3] The Court then noted that the fact that a person is empowered to hire the men who will assist him in the performance of his work "affirms his independent status. Reference is then made to that stipulation in the contracts that petitioners "will pay for [their] own account all recruiting expenses, actual cost of transportation of recruits and their subsistence allowance while en route to Canlubang." [4] That is another indication of the absence of the employer-employee relationship in the opinion of the tax Court, the reason being that it is "unusual for an employer or servant to defray like expenses incurred by persons he hired to assist him, in the work." [5] Nor did it consider as detracting from the attribute of independence possessed by petitioners, the contractual limitation limiting recruitment to natives of specifically named provinces and imposing the condition "that the work be done in accordance with a harvest schedule." [6] The Circumstance that the next provision of the

harvest contracts dealt with the payment of Canlubang of services of petitioners at rates fixed per ten from which sum the men hired would be remunerated was for the Court further proof. It reached the same conclusion in view of the preparation of the payrolls by petitioners to be thereafter submitted to Canlubang for verification, with payments being made by petitioners or their duly authorized representatives. Its thinking was that if the petitioners were mere employees of Canlubang, this matter would be attended to by its accounting or clerical department. The provisions of the harvest contracts with Canlubang furnishing the tools, implements and other equipment for which petitioners were named responsible and any damage thereto due to lack of proper care and precaution being repaired or replaced at their expense, was likewise viewed by the Court in the same light. The obligation incumbent on petitioners according to the harvest contracts to furnish at their expense the necessary loading boards and the requirement that they execute security for the performance of their undertaking and for full payment of all advances made to them, were seized upon by the Court as reinforcing conclusion it reached as to their status.

The harvest contracts regulated the daily tonnage of the harvested steel cane that petitioners could deliver to Canlubang, specifying the cutting of cane in accordance with rules and instructions laid down, violation of which would empower Canlubang to employ other laborers to do the cutting for the account of petitioners plus 50% penalty. They also provided for the gathering of cane found on the ground and left unloaded within two (2) days after cutting for the account of petitioners plus the same amount of penalty, the nonloading by them of rotten, deceased or decayed cane with either deduction from the amount due them based on its weight or the obligation to sort them out at their expense, and their abiding by the rules, regulations, orders or instructions furnished by Canlubang for the proper harvesting of all cane. Such provisions were not considered as impairing their independent character, the Court citing a principle in American law that stipulations that work is to be done with instructions from the employer or as the employer may direct do not militate against such status. What strengthened the tax Court further in its firm adherence to such a conclusion were the "provisions for defraying by the contractor of expenses and damages for violations of such rules, regulations or instructions * * *." [7]

The Court of Tax Appeals took into account the testimonial evidence showing the presence of Canlubang personnel supervising the work of petitioners and seeing to it "that the work is done according to the rules, regulations or instructions." It did not consider such circumstance as lessening their independent status. Nor it did ignore the fact that medical treatment was provided cane cutters by Canlubang's own physicians in its own hospital, some of them having been paid compensation under the Workmen's Compensation Act. This was not deemed conclusive "of the subservient status of petitioners because the probative significance of these circumstances is not sufficient to change the status of petitioners which is shown by the remainder of the evidence to be an independent one." [8]

Accordingly, the Court of Tax Appeals held, as above referred to, that petitioners were independent contractors taxable under the National Internal Revenue Code. From such a judgment, there was an appeal to this Court. We affirm the decision of the Court of Tax Appeals.

No other conclusion is possible in view of the well settled principle that this Court is bound by the finding of facts of the Court of Tax Appeals, only questions of law being open to it for determination. [9] As stated in another, decision, "only errors of law, and not rulings on the weight. Of evidence, are reviewable by this court." [10] The facts then as above ascertained cannot be disturbed. [11] In our latest decision, there is a categorical assertion that where the question is one of fact, it is no longer reviewable. [12]

With petitioners-appellants assigning as errors, the holding that they were considered independent contractors taxable under Section 191, the Court of Tax Appeals failing to consider the extent of the control and supervision over the plan, manner, means, method and progress of cane harvesting and over their conduct and that of cane

cutters as well as invoking in support of this decision only the provisions of these contracts relative to their onerous undertaking but failing to discuss the main issue as to who was in control and supervision of the plan, manner, means, method and progress of cane harvesting, resulting in the affirmance of the assessments imposed on them, errors which they discussed jointly, the emphasis being on the alleged control of Canlubang and the extent to which petitioners could be considered independent, the reversal of the Court of Tax Appeals is out of the question. In essence, what petitioners seek is to have us review factual matters. As has just been noted, the determination made by the Court of Tax Appeals on those points should remain undisturbed.

It is true as held in one of our decisions that to determine the nature of the contract "courts do not have or are not bound to rely upon the name or title given it by the contracting parties, should there be a controversy as to what they really had intended to enter into, but the way the contracting parties do or perform their respective obligations stipulated or agreed upon may be shown and inquired into, and should such performance conflict with the name or title given the contract by the parties, the former must prevail over the latter." [13] Based on the above test, the harvest contracts entered into by petitioners as contractors, as analyzed by the Court of Tax Appeals, reveal clearly the extent of their independence and the correctness of the conclusion reached. Petitioners were correctly adjudged to be independent contractors.

WHEREFORE, the decision of the Court of Tax Appeals, is affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

[1] Section 191 of Commonwealth Act No. 466 as amended provides: "* * * and other independent contractors, * * * shall pay a tax equivalent to three per centum their gross receipts."

[2] Decision of the Court of Tax Appeals, Appendix A, Brief for Petitioner-Appellants, pp. I-II.

[3] Ibid, p. III.

[4] Ibid, p. III.

[5] Ibid, pp. III-IV.

[6] Ibid, p. IV.

[7] Ibid, p. VI.

[8] Ibid, p. VII.

[9] Sanchez v. Commissioner of Customs (1957) 102 Phil. 37.

[10] Castro v. Collector of Internal Revenue, L-12174, April 26, 1962; Yupangco and Sons v. Commissioner of Customs, L-22259, January 19, 1966.

[11] Commissioner v. Priscila Estate Inc., L-18282, May 29, 1964; The Philippine Guaranty v. Commissioner of Internal Revenue, L-22074, September 6, 1965.

[12] Republic of the Philippines v. Razon and Jai Alai Corporation, L-17462, May 24, 1967.

[13] Shell Co. of the Phil., Ltd. v. Firemen's Ins. Co. of Newark, N. J., et al., (1957) 100 Phil. 757, 764.

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