

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS, AND NIELSON & COMPANY, INC., RESPONDENTS.

G.R. No. L-38540. April 30, 1987

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fe9177adb3c8/>

PADILLA, J.:

This is a petition for review on certiorari of the decision of the respondent Court of Appeals[1] in CA G.R. No. 37417-R, dated 3 April 1974, reversing the decision of the then Court of First Instance of Manila which ordered private respondent Nielson & Co., Inc. to pay the Government the amount of P11,496.00 as ad valorem tax, occupation fees, additional residence tax and 25% surcharge for late payment, for the years 1949 to 1952, and costs of suit, and of the resolution of the respondent Court, dated 31 May 1974, denying petitioner's motion for reconsideration of said decision of 3 April 1974.

In a demand letter, dated 16 July 1955 (Exhibit A), the Commissioner of Internal Revenue assessed private respondent deficiency taxes for the years 1949 to 1952, totalling P14,449.00, computed as follows:

1-1/2% ad valorem tax on P448,000.00

P7,320.00

25% surcharge for late payment

1,830.00

Occupation fees for the years 1949 to 1952 at P1.00 per ha. per year on 1,230 hectares

4,920.00

Additional residence tax on P379,000.00 at P1.00 per every P5,000.00 per year or P75.00 x 4 years ...

303.20

25% surcharge for late payment

75.00

TOTAL AMOUNT DUE

P14,449.00 [2]

Petitioner reiterated its demand upon private respondent for payment of said amount, per letters dated 24 April 1956 (Exhibit D), 19 September 1956 (Exhibit E) and 9 February 1960 (Exhibit F). Private respondent did not contest the assessment in the Court of Tax Appeals. On the theory that the assessment had become final and executory, petitioner filed a complaint for collection of the said amount against private respondent with the Court of First Instance of Manila, where it was docketed as Civil Case no. 42911. However, for failure to serve summons upon private respondent, the complaint was dismissed, without prejudice, in the Court's order dated 30 June 1961. On motion, the order of dismissal was set aside, at the same time giving petitioner sixty (60) days within which to serve summons upon private respondent.

For failure anew to serve summons, the Court of First Instance of Manila issued an order dated 4 October 1962 dismissing Civil Case no. 42911 without prejudice. The order of dismissal became final on 5 November 1962.

On 15 November 1962, the complaint against private respondent for collection of the same tax was refiled, but the same was erroneously docketed as Civil Case no. 42911, the same case previously dismissed without prejudice. Without correcting this error, another complaint was filed on 26 November 1963, docketed as Civil Case no. 55817, the subject matter of the present appeal.

As herein earlier stated, the Court a quo rendered a decision against the private respondent. On appeal to the respondent Court of Appeals, the decision was reversed. Petitioner, Republic of the Philippines, filed a motion for reconsideration which was likewise denied by said Court in a resolution dated 31 May 1974. Hence, this petition, with the following assignment of errors:

I

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE LETTER OF ASSESSMENT DATED JULY 16, 1955, EXHIBIT "A", WAS RECEIVED BY PRIVATE RESPONDENT IN THE ORDINARY COURSE OF THE MAIL PURSUANT TO SECTION 8, RULE 13 OF THE REVISED RULES OF COURT.

II

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT PRIVATE RESPONDENT FAILED TO REBUT THE PRESUMPTION THAT THE LETTER ASSESSMENT DATED JULY 16, 1955, HAVING BEEN DULY DIRECTED AND MAILED WAS RECEIVED IN THE REGULAR COURSE OF THE MAIL AND THAT OFFICIAL DUTY HAS BEEN REGULARLY PERFORMED.

III

THAT, ASSUMING, WITHOUT ADMITTING, THAT THE LETTER DATED JULY 16, 1955 (EXHIBIT "A") CANNOT BE CONSIDERED AS AN ASSESSMENT, ON THE THEORY THAT THE SAME HAS NOT BEEN RECEIVED BY PRIVATE RESPONDENT, THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE LETTER OF THE DEPUTY COLLECTOR (NOW DEPUTY COMMISSIONER) OF INTERNAL REVENUE DATED SEPTEMBER 19, 1956 (EXHIBIT "E") IS ITSELF AN ASSESSMENT WHICH WAS DULY RECEIVED BY PRIVATE RESPONDENT.

Relying on the provisions of Section 8, Rule 13 and Section 5, paragraphs m & v, Rule 131 of the Revised Rules of Court, petitioner claims that the demand letter of 16 July 1955 showed an imprint indicating that the original thereof was released and mailed on 4 August 1955 by the Chief, Records Section of the Bureau of Internal

Revenue, and that the original letter was not returned to said Bureau; thus, said demand letter must be considered to have been received by the private respondent.[3] According to petitioner, if service is made by ordinary mail, unless the actual date of receipt is shown, service is deemed complete and effective upon the expiration of five (5) days after mailing.[4] As the letter of demand dated 16 July 1955 was actually mailed to private respondent, there arises the presumption that the letter was received by private respondent in the absence of evidence to the contrary.[5] More so, where private respondent did not offer any evidence, except the self-serving testimony of its witness, that it had not received the original copy of the demand letter dated 16 July 1955.[6]

We do not agree with petitioner's above contentions. As correctly observed by the respondent Court in Its appealed decision, while the contention of petitioner is correct that a mailed letter is deemed received by the addressee in the ordinary course of mail, still, this is merely a disputable presumption, subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee. Thus:

"Appellee contends that per Exhibit A, the notice was released and mailed to the appellant by the BIR on Aug. 4, 1955 under the signature of the Chief, Records Section, Office; that since the original thereof was not returned to the appellee, the presumption is that the appellant received the mailed notice. This is correct, but this being merely a mere disputable presumption, the same is subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was received by the addressee. The appellee, however, argues that since notice was released and mailed and the fact of its release was admitted by the appellant the admission is proof that he received the mailed notice of assessment. We do not think so. It is true the Court a quo made such a finding of fact, but as pointed out by the appellant in its brief, and as borne out by the records, no such admission was ever made by the appellant in the answer or in any other pleading, or in any declaration, oral or documentary before the trial court. We note that the appellee has not met this challenge, and after a review of the records, we find appellant's assertion well-taken."[7]

Since petitioner has not adduced proof that private respondent had in fact received the demand letter of 16 July 1955, it can not be assumed that private respondent received said letter. Records, however, show that petitioner wrote private respondent a follow-up letter dated 19 September 1956, reiterating its demand for the payment of taxes as originally demanded in petitioner's letter dated 16 July 1955. This follow-up letter is considered a notice of assessment in itself which was duly received by private respondent in accordance with its own admission.[8] The aforesaid letter reads:

"September 19, 1956

Nielson and Company, Inc.
Ayala- Boulevard, Manila

Gentlemen:

In reply to you (sic) letter dated June 1, 1956 relative to your pending internal revenue tax liability involving the amount of P15,649.00 as annual occupation fees, ad valorem and additional residence taxes, surcharges and penalty, originally demanded of you on July 16, 1955, I have the honor to inform you that investigation conducted by an agent of this office show that you and the Hixbar Gold Mining Co., Inc. entered into an agreement in 1938 whereby you were given full, exclusive and irrevocable control of all the operations, development, processing and marketing of mineral products from the latter's mines and that all the assessments, taxes and fees of any nature in connection with the said operation, development, proceeding and marketing of these products shall be paid by you. In view thereof, and it appearing that the aforesaid tax liabilities accrued when your contract was in full force and effect, you are therefore, the party liable for the payment thereof, notwithstanding the alleged contract subsequently entered into by you and the Hixbar Gold

Miring Co., Inc. on September 9, 1954.

It is therefore, again requested that payment of the aforesaid amount of P15,649.00 be made to the City Treasurer, Manila within five(5) days from your receipt hereof so that this case may be closed.

You are further requested to pay the sum of P150.00 as compromise suggested in our letter to you dated February 24, 1955, it appearing that the same has not as yet been paid up to the present.

Very respectfully yours,

JOSE ARANAS

Deputy Collector of Internal Revenue"[9]

Under Section 7 of Republic Act no. 1125, the assessment is appealable to the Court of Tax Appeals within thirty (30) days from receipt of the letter. The taxpayer's failure to appeal in due time, as in the case at bar, makes the assessment in question final, executory and demandable. Thus, private respondent is now barred from disputing the correctness of the assessment or from invoking any defense that would reopen the question of its liability on the merits.[10]

In *Mamburao Lumber Co. vs. Republic*,[11] this Court further said:

"In a suit for 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 a judgment. No inquiry can be made therein as to the merits of the original case or the justness of the judgment relied upon. x x x."

ACCORDINGLY, the appealed decision is hereby reversed. The decision of the Court a quo is hereby reinstated. No costs.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

Paras, J., took no part - brother in law is a partner of the law firm representing respondents.

[1] Penned by Justice Ramon G. Gaviola, Jr. with the concurrence of Justices Guillermo B. Santos and Pacifico de Castro

[2] Rollo, p. 28

[3] Brief for Petitioner, p. 7

[4] Brief for Petitioner, p. 7

[5] Brief for Petitioner, p. 12

[6] Brief for Petitioner, p. 12

[7] Rollo, p. 30

[8] Brief for the Private Respondent, p. 5

[9] Brief for Respondent, pp. 16-17

[10] *Republic vs. Lim Tian Teng Sons & Co., Inc.*, 16 SCRA 585

[11] G.R. No. L-37061 promulgated on Sept. 5, 1984, 132 SCRA 1

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.