

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
JUANA B. VDA. DE DEL ROSARIO, MANUEL DEL ROSARIO AND LUIS
DEL ROSARIO, DEFENDANTS AND APPELLEES.**

G.R. No. 10460, March 11, 1959

Ponente: PADILLA, J.

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PADILLA, J.:

Juana R. Vda. del Rosario is the widow and Manuel del Rosario and Luis del Rosario are the children by the second marriage of the late Simplicio del Rosario. On 20 August 1954 the Government brought an action in the Court of First Instance of Manila against the above-named persons to collect from them a balance of P7,622.74, for 1946 deficiency income tax amounting to P14,097.54 due from their late husband and father Simplicio del Rosario who died 22 February 1947 leaving an estate valued at P196,147.06 which the defendants and the children by the first marriage inherited. The complaint alleges that the defendants and their co-heirs are liable to pay the deficiency income tax due from their predecessor in proportion to their share in his estate; that their co-heirs already had paid fully their respective shares in the deficiency income tax due from them but the defendants had paid only the sum of P6,286.60, thus leaving a balance of P7,622.74 still unpaid, which they refused to pay notwithstanding repeated demands. The plaintiff prays that the defendants be ordered to pay to the Government the aforesaid balance, delinquency penalties and lawful interest due thereon from the date of the filing of the complaint and costs. It further prays for any other just and equitable relief (civil No. 23783).

The defendants moved for the dismissal of the complaint on the ground that it states no cause of action and that it is barred by the statute of limitations. After their motion had been denied, they answered the complaint admitting payment by them of P6,286.60 and their refusal to pay the balance of P7,622.74 and setting up the special defense that since the children by the first and second marriages received equal shares in the estate of the deceased, the defendants alone should not be held liable for the total amount sought to be collected by the plaintiff. They prayed that the complaint be dismissed or that the children by the first marriage be impleaded as third party defendants in the case.

On 14 April 1955 the plaintiff filed a motion praying that the case be certified to the Court of Tax Appeals pursuant to section 22 of Republic Act No. 1125. After hearing, the Court denied the motion. On 21 April, after further study of the question raised by the plaintiff the Court set aside its previous order and certified the case to the Court of Tax Appeals giving as ground for the reversal the fact that the case involved a disputed assessment made by the Collector of Internal Revenue. On 21 November the Court of Tax Appeals resolved that as the complaint was filed on 20 August 1954, or after the enactment of Republic Act No. 1125 creating the Court of Tax Appeals, it had no jurisdiction over the case and returned it to the Court of First Instance. On 9 February 1956 the Court of First Instance dismissed the case without prejudice, it being of the opinion that as it involved a disputed assessment made by the Collector of Internal Revenue, the case was within the jurisdiction of the Court of Tax Appeals.

The plaintiff has appealed.

The question now is which court has jurisdiction to hear and determine the case, the Court of First Instance as contended by the appellant or the Court of Tax Appeals as maintained by the appellees?

The pertinent provisions of Republic Act No. 1125 provide:

SEC. 7. Jurisdiction.—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;

(2) * * *

(3) * * *

SEC. 11. Who may appeal; effect of appeal.—Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector 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.

SEC. 22. Pending cases to be remanded to Court.—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.

The Solicitor General points out that the case was filed on 20 August 1954, after Republic Act No. 1125 took effect (16 June 1954). He argues that the case was not then pending determination in the Court of First Instance at the time of the approval of Republic Act No. 1125; and that it is not a case involving a disputed assessment of internal revenue tax or customs duties, but an original action to enforce payment of income tax due. Hence he concludes that the Court of Tax Appeals has no jurisdiction to hear and determine the case.

Section 7, Republic Act No. 1125, vests in the Court of Tax Appeals exclusive appellate jurisdiction to review by appeal "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;" and section 11 of the same Act provides for an appeal by those who are adversely affected by a decision or ruling of the Collector of Internal Revenue to the Court of Tax Appeals within thirty days after receipt of the decision or ruling. Obviously, the case of the appellees does not come under section 7 of the Act, because they have not appealed from the assessment made by the Collector of Internal Revenue, as provided for in section 11 of the Act. And their failure to appeal from the assessment rendered it final, executory and demandable. Their refusal to pay the balance of the 1946 deficiency income tax due from their late father after paying partially does not render the assessment a disputable one.

The order appealed from is reversed and the case remanded to the Court of First Instance of Manila for further proceedings in accordance with law, without pronouncement as to costs.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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