

MARIANO MARQUEZ LIM, JOSE MARQUEZ LIM, CONCORDIA VDA. DE MARQUEZ LIM, YAO JIAP, LIM YAO TING AND LIM YAO GO, PETITIONERS, VS. THE COLLECTOR OF INTERNAL REVENUE AND THE COURT OF ...

G.R. No. 12157. May 30, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Petition for review of a resolution of the Court of Tax Appeals dismissing the petition for review filed with it by petitioners herein on February 23, 1956, for the reason that the court lacked jurisdiction over the petition because it was beyond the 30-day period prescribed by Republic Act No. 1125. The ground for the decision is that the petition was filed after 35 days, because the determinative period within which to appeal is to be counted from receipt of the letter of the Bureau of Internal Revenue of September 7, 1955, which took place on September 21, 1955.

The following are the various steps, with their respective dates, taken either by the attorney for the appellees or by the Collector of Internal Revenue, before the petition for review was presented with the Court of Tax Appeals on February 23, 1956:

1. Before March 24, 1954, appellants received income tax assessment notices all dated February 24, 1954 (Exh. "2-A");
2. March 24, 1954, the taxpayers filed a protest with the Collector of Internal Revenue claiming that the property on which the taxes were assessed is co-ownership property. Request is made for the cancellation of the assessment notice;
3. April 30, 1954, the Bureau of Internal Revenue, answering above letter of protest, informed taxpayers that the matter has been referred to the provincial revenue agent for verification;
4. Letter of attorney for taxpayers, dated February 9, 1955, received in the Bureau of Internal Revenue on February 14, 1955, claiming that the assessment was co-owners and are not partners (Exh. "3");
5. February 9, 1955, attorneys for taxpayers insist on cancellation of assessment notices on the ground that the taxpayers claims had not been investigated and insisting that the property was co-ownership property;
6. February 18, 1955, above letter of attorney for taxpayers was referred to the provincial revenue agent;
7. Letter of Bureau of Internal Revenue to provincial revenue agent, Iloilo City, dated June 1, 1955, requesting the comment of examiner Luis Formilleza on the letter of protest of attorney for taxpayers.
8. Indorsement of provincial revenue agent of Iloilo, dated July 18, 1955, furnishing copy of the report of examiner Luis Formilleza, to the effect that there was no co-ownership between the taxpayers because the

co-owners bought the property and were dividing the income derived therefrom and, therefore, they actually formed a partnership;

9. September 7, 1955, the deputy collector of internal revenue advises attorney of taxpayers that upon investigation it was found that the owners of the land bought the land and the buildings thereon with the intention of letting it to the public and dividing the profits among themselves. In that letter demand is made for the payment of the amounts originally assessed to the city treasurer of Iloilo, not later than September 30, 1955;

10. September 21, 1955, attorney for taxpayers insists that the property was community property. This was received by the Bureau of Internal Revenue on September 26, 1955;

11. September 30, 1955, the Collector of Internal Revenue reiterates demand for the payment of the taxes, otherwise collection will be enforced in accordance with law (Exh. "6"); accompanying it was a letter to the register of deeds giving notice of a lien on the property in question;

12. October 1, 1955, the Collector issued a warrant of distraint and levy;

13. October 13, 1955, attorney for taxpayers insists on the cancellation of assessments. This was received on October 19, 1955;

14. November 4, 1955, a new lawyer for taxpayers presents another reasoned request for the cancellation of the assessment notices (Exh. "7"). This was received by the Bureau of Internal Revenue on November 4, 1955. November 28, 1955, the above motion was denied

15. Petition for review was filed February 23, 1956, attaching thereto the letter of the Collector of Internal Revenue of December 28, 1955.

A consideration of all the above proceedings and the dates thereof, shows that the definitive date on which the appeal should be counted is the receipt by the petitioners of the letter of the Collector of Internal Revenue, dated September 7, 1955, or September 21, 1955, as found by the Court of Tax Appeals. The letter reads thus:

"In view thereof, it will be appreciated if you can urge your client to pay the aforesaid amounts of P689.96, P710.83, P700.80, P1,494.00 and P2,215.00, plus the 5 per cent surcharge and 1 per cent monthly interest from April 30, 1954 to the date of payment, and the further sum of P70.00 as administrative penalty for their late payment, to the City Treasurer of Iloilo not later than September 30, 1955, in order that this matter may be closed."

In arriving at the conclusion that 35 days expired from the time the appeal should have been presented up to the time it was actually presented, the Court of Tax Appeals states:

"The petitioners herein, by their appeal to this Court, seek the review the deficiency income tax assessments made by the Collector of Internal Revenue. The determinative pronouncement in this regard made after the effectivity of Republic Act No. 1125 was respondent's letter of September 7, 1955. Hence the 30-day period within which to appeal the same to this court should be counted from the receipt thereof which is from September 21, 1955.

"After deducting the period between September 21, 1955 and January 24, 1956 during which the petitioners request for reconsideration was pending, we find that at the time the instant petition for review was filed on February 23, 1956, a total of thirty-five (35) days had already elapsed and the appeal was therefore filed out of time."

The ruling of the Court of Tax Appeals in the case at bar, allowing suspension of the period for appeal by the presentation of motions for reconsideration, would seem to us quite lenient. The Government has an interest in the

speedy collection of the taxes due it, and were we to allow repeated motions for reconsideration, the expeditious collection of taxes would unduly hampered. On the other hand, the right to an opportunity to present the taxpayer's case should not be curtailed. We have come across cases where revenue agents make unreasonable assessments only to have the same reduced upon more careful study. But this right should not be abused. In the case at bar, the different petitions for reconsideration have been on the same ground, i. e., that the property taxed was one subject to co-ownership and not one of a partnership. We find that the Court of Tax Appeals gave ample opportunities for the reconsideration, and we believe that petitioners have no ground for complaint.

For the foregoing considerations, we hereby affirm the decision of the Court of Tax Appeals dismissing the action, with costs against petitioners.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Endencia, JJ., concur.

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