

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF TAX APPEALS, ET AL., RESPONDENTS.*G.R. No. 15021. September 30, 1960*

Ponente: CONCEPCION, J.

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An appeal by the Government from a resolution of the Court of Tax Appeals remanding the record of this case, for its final disposition, to the Court of First Instance of Manila.

On March 19, 1947, the Pacific Trading Corporation, as principal, and the Manila Surety and Fidelity Co., Inc., as surety, hereinafter referred to as the taxpayer and the surety, respectively, executed, in favor of the Republic of the Philippines a bond stating that the taxpayer had a pending tax liability, in favor of the Bureau of Internal Revenue, amounting to P52,873.43, as percentage tax and surcharge and as commercial broker's percentage tax corresponding to the period from the 1st to the 3rd quarters of 1946, plus P100.00 as compromise; that, upon request of the taxpayer, the Government had "agreed to the settlement of said tax obligation by installment, P13,933.43 as first installment, and the balance of P39,000.00 payable in six equal monthly installments of P6,500.00 * * * beginning April, 1947," that the Government had required the taxpayer to file a bond for P39,000 to secure the payment of said installments; and that, accordingly, said corporation and the surety bound themselves, jointly and severally, in favor of the Government in the aforementioned sum of P39,000, to be paid in the manner above stated.

On August 28, 1951, the Government instituted Civil Case No. 14572 of the Court of First Instance of Manila, against the taxpayer and the surety for the recovery under said bond, of the sum of P26,000.00, representing the balance of the aforementioned tax liability, which said defendants allegedly refused to pay, despite repeated demands. Apart from pleading release, based upon some alleged extensions and modifications of the original agreement between the Government and the taxpayer, the surety set up, in its answer, a cross-claim against the latter, and a third-party complaint against A. M. Rosado and Paul Miraflores, as alleged counter guarantors. On December 18, 1952, the case was dismissed without prejudice, owing to inaction of the parties, but, soon later, or on January 7, 1953, it was reinstated on motion of the plaintiff. By an order of said court, presided over by Hon. Froilan Bayona, Judge, dated March 16, 1956, the record was forwarded to the "Board of Tax Appeals" (referring to the Court of Tax Appeals) "for proper proceeding," upon the ground that the case fell within the jurisdiction of said board.

On or about November 7, 1956, the third-party defendants moved that the third-party complaint against them be dismissed. By resolution, dated December 27, 1956, the motion was denied by the Court of Tax Appeals. Meanwhile, or on November 16, 1956, the taxpayer had filed its answer to the complaint, alleging mainly that its present management "is without knowledge or information sufficient to form a belief as to the truth of the allegations" thereof and, accordingly, denying said allegations. On May 27, 1958, the taxpayer filed an amended answer alleging, inter alia, by way of special and affirmative defense, that plaintiff's cause of action is barred by the statute of limitations. By a resolution dated November 11, 1958, the Court of Tax Appeals held that it had no

jurisdiction to hear and decide the case and remanded the record thereof "to the Court of origin for its final disposition." A reconsideration of this resolution having been denied, the issue has been brought to us by petition for a writ of certiorari and mandamus with preliminary injunction filed by the plaintiff in the main case.

The only question for determination in this case is whether the same falls within the jurisdiction of the Court of Tax Appeals. Section 7 of Republic Act No. 1125 partly provides that:

"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." (Italics supplied.)

Pursuant to section 22 of said Act:

"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." (Italics supplied.)

The present action does not come under any of the cases enumerated in the foregoing provisions. It involves neither a disputed assessment nor a decision of the Commissioner of Internal Revenue. It is an ordinary action for the collection of a sum of money, representing the unpaid balance of a tax liability the existence of which is acknowledged in the bond above mentioned, which guarantees its payment. As held in *Republic vs. Vda. de Del Rosario, et al.*, (105 Phil., 277; 57 Off. Gaz. [31] 5543) and *Uy Ham vs. Republic, et al.*, G. R. No. L-13809 (October 20, 1959) the cause of action of petitioner herein is within the exclusive original jurisdiction of courts of first instance, and cannot be entertained by the Court of Tax Appeals.

Wherefore, the resolution appealed from is hereby affirmed, without costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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