

LIMPAN INVESTMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, ET AL., RESPONDENTS.

G.R. No. 21570. July 26, 1966

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-21570/>

REYES, J.B.L., J.:

Appeal interposed by petitioner Limpan Investment Corporation against a decision of the Court of Tax Appeals, in its CTA Case No. 699, holding and ordering it (petitioner) to pay respondent Commissioner of Internal Revenue the sums of P7,338.00 and P30,502.50, representing deficiency income taxes, plus 50% surcharge for the years 1956, and 1957, respectively, plus 5% surcharge and 1% monthly interest from June 30, 1959 to the date of payment, with costs.

The facts of this case are:

Petitioner, a domestic corporation duly registered since June 21, 1955, is engaged in the business of leasing real properties. It commenced actual business operations on July 1, 1955. Its principal stockholders are the spouses Isabelo P. Lim and Purificacion Cañiza de Lim, who own and control ninety-nine per cent (99%) of its total paid-up capital. Its president and chairman of the board is the same Isabelo P. Lim.

Its real properties consist of several lots and buildings, mostly situated in Manila and in Pasay City, all of which were acquired from said Isabelo P. Lim and his mother, Vicenta Pantangco Vda. de Lim.

Petitioner corporation duly filed its 1956 and 1957 income tax returns, reporting therein net incomes of P3,287.81 and P11,098.36 respectively, for which it paid the corresponding taxes therefor in the sums of P657.00 and P2,220.00.

Sometime in 1958 and 1959, the examiners of the Bureau of Internal Revenue conducted an investigation of petitioner's 1956 and 1957 income tax returns and, in the course thereof, they discovered and ascertained that petitioner had undeclared its rental incomes by P20,199.00 and P81,690.00 during these taxable years and had claimed excessive depreciation of its buildings in the sums of P4,260 and P16,338.00 covering the same period. On the basis of these findings, respondent Commissioner of Internal Revenue issued its letter-assessment and demand for payment of deficiency income tax and surcharge against petitioner corporation, computed as follows:

90-AR-C-348-58/56

Net income per audited return

P3,287.81

Add: Unallowable deductions:

Undeclared Rental Receipt

(Schedule A)

P20,199.00

Excess Depreciation (Sched. B)

4,260.00

P24,459.00

Net income per investigation

27,746.00

Tax due thereon

5,549.00

Less: Amount already assessed

657.00

Balance

4,892.00

Add: 50% Surcharge

2,446.00

DEFICIENCY TAX DUE

7,338.00

=====

90-AR-C-1196-58/57

Net income per audited return

P11,098.00

Add: Unallowable deductions:
Undeclared Rental Receipt

(Schedule A)

P81,690.00

Excess Depreciation (Sched. B)

16,338.00

P98,028.00

Net income per investigation

109,126.00

Tax due thereon

22,555.00

Less: Amount already assessed

2,220.00

Balance

20,335.00

Add: 50% Surcharge

10,167.50

DEFICIENCY TAX DUE

P30,502.50

=====

Petitioner corporation requested respondent Commissioner of Internal Revenue to reconsider the above assessment but the latter denied said request and reiterated its original assessment and demand, plus 5% surcharge and the 1% monthly interest from June 30, 1959 to the date of payment; hence, the corporation filed its petition for review before the Tax Appeals Court, questioning the correctness and validity of the above assessment of respondent Commissioner of Internal Revenue. It disclaimed having received or collected the amount of P20,199.00, as unreported rental income for 1956, or any part thereof, reasoning out that "the previous owners of the leased buildings has (have) to collect part of the total rentals in 1956 to apply to their payment of rental in the land in the amount of P21,630.00" (par. 11, petition). It also denied having received or collected the amount of P81,690.00, as unreported rental income for 1957, or any part thereof, explaining that part of said amount totalling P31,380.00 was not declared as income in its 1957 tax return because its president, Isabelo P. Lim, who collected and received P13,500.00 from certain tenants, did not turn the same over to petitioner corporation in said year but did so only in 1959; that a certain tenant (Go Tong) deposited in court his rentals amounting to P10,800.00, over which the corporation had no actual or constructive control; and that a sub-tenant paid P4,200.00 which ought not be declared as rental income.

Petitioner likewise alleged in its petition that the rates of depreciation applied by respondent Commissioner to its buildings in the above assessment are unfair and inaccurate.

Sole witness for petitioner corporation in the Tax Court was its Secretary-Treasurer, Vicente G. Solis, who admitted that it had omitted to report the sum of P12,100.00 as rental income in its 1956 tax return and also the sum of P29,350.00 as rental income in its 1957 tax return. However, with respect to the difference between this omitted income (P12,100.00) and the sum (P20,199.00) found by respondent Commissioner as undeclared in 1956, petitioner corporation through the same witness (Solis), tried to establish that it did not collect or receive the same because, in view of the refusal of some tenant to recognize the new owner, Isabelo P. Lim and Vicenta Pantangco Vda. de Lim, the former owners, on one hand, and the same Isabelo P. Lim, as president of petitioner corporation, on the other hand, had verbally agreed in 1956 to turn over to petitioner corporation six per cent (6%) of the value of all its properties, computed at P21,630.00, in exchange for whatever rentals the Lims may collect from the tenants. And, with respect to the difference between the admittedly undeclared sum of P29,350.00 and that found by respondent Commissioner as unreported rental income (P81,690.00) in 1957, the same witness Solis also tried to establish that petitioner corporation did not receive or collect the same but that its president, Isabelo P. Lim, collected part thereof and may have reported the same in his own personal income tax return; that same Isabelo P. Lim collected P13,500.00, which he turned over to petitioner in 1959 only; that a certain tenant (Go Tong) deposited in court his rentals (P10,800.00), over which the corporation had no actual or constructive control and which were withdrawn only in 1958; and that a subtenant paid P4,200.00 which ought not be declared as rental income in 1957.

With regard to the depreciation which respondent disallowed and deducted from the returns filed by petitioner, the same witness tried to establish that some of its buildings are old and out of style; hence, they are entitled to higher rates of depreciation than those adopted by respondent in his assessment.

Isabelo P. Lim was not presented as witness to corroborate the above testimony of Vicente G. Solis.

On the other hand, Plaridel M. Mingoa, one of the BIR examiners who personally conducted the investigation of the 1956 and 1957 income tax returns of petitioner corporation, testified for the respondent that he personally interviewed the tenants of petitioner and found that these tenants had been regularly paying their rentals to the collectors of either petitioner or its president, Isabelo P. Lim, but these payments were not declared in the corresponding returns; and that in applying rates of depreciation to petitioner's buildings, he adopted Bulletin "F", of the U.S. Federal Internal Revenue Service.

On the basis of the evidence, the Tax Court upheld respondent Commissioner's assessment and demand for deficiency income tax which, as above stated in the beginning of this opinion, petitioner has appealed to this Court.

Petitioner corporation pursues the same theory advocated in the court below and assigns the following alleged errors of the trial court in its brief, to wit:

"I. The respondent Court erred in holding that the petitioner had an unreported rental income of P20,199.00 for the year 1956.

"II. The respondent Court erred in holding that the petitioner had an unreported rental income of P81,690.00 for the year 1957.

"III, The respondent Court erred in holding that the depreciation in the amount of P20,598.00 claimed by petitioner for the years 1956 and 1957 was excessive."

and prays that the appealed decision be reversed.

This appeal is manifestly unmeritorious. Petitioner having admitted, through its own witness (Vicente G. Solis), that it had undeclared more than one-half (1/2) of the amount (P12,100.00 out of P20,199.00) found by the BIR examiners as unreported rental income for the year 1956 and more than one-third (1/3) of the amount (P29,350.00 out of P81,690.00) ascertained by the same examiners as unreported rental income for the year 1957, contrary to its original claim to the revenue authorities, it was incumbent upon it to establish the remainder of its pretensions by clear and convincing evidence, that in the case is lacking.

With respect to the balance, which petitioner denied having unreported in the disputed tax return, the excuse that Isabelo P. Lim and Vicenta Pantangco Vda. de Lim retained ownership of the lands and only later transferred or disposed of the ownership of the buildings existing thereon to petitioner corporation, so as to justify the alleged verbal agreement whereby they would turn over to petitioner corporation six percent (6%) of the value of its properties to be applied to the rentals of the land and in exchange for whatever rentals they may collect from the tenants who refused to recognize the new owner or vendee of the buildings, is not only unusual but uncorroborated by the alleged transferors, or by any document or unbiased evidence. Hence, the first assigned error is without merit.

As to the second assigned error, petitioner's denial and explanation of the non-receipt of the remaining unreported income for 1957 is not substantiated by satisfactory corroborate. As above noted, Isabelo P. Lim was not presented as a witness to confirm accountant Sol is nor was his 1957 personal income tax return submitted in court to establish that the rental income which he allegedly collected and received in 1957 were reported therein.

The withdrawal in 1958 of the deposits in court pertaining to the 1957 rental income is no sufficient justification for the non-declaration of said income in 1957, since the deposit was resorted to due to the refusal of petitioner to accept the same, and was not the fault of its tenants; hence, petitioner is deemed to have constructively received such rentals in 1957. The payment by the subtenant in 1957 should have been reported as rental income in said year, since it is income just the same regardless of its source.

On the third assigned error, suffice it to state that this Court has already held that "depreciation is a question of fact and is not measured by theoretical yardstick, but should be determined by a consideration of actual facts", and the findings of the Tax Court in this respect should not be disturbed when not shown to be arbitrary or in abuse of discretion (Commissioner of Internal Revenue vs. Priscila Estate, Inc. et al, L-18282, May 29, 1964), and petitioner has not shown any arbitrariness or abuse of discretion on the part of the Tax Court in finding that petitioner claimed excessive depreciation in its returns. It appearing that the Tax Court applied rates of

depreciation in accordance with Bulletin "F" of the U.S. Federal Internal Revenue Service, which this Court pronounced as having strong persuasive effect in this jurisdiction, for having been the result of scientific studies and observation for a long period in the United States, after whose Income Tax Law ours is patterned (M. Zamora vs. Collector of Internal Revenue & Collector of Internal Revenue vs. M. Zamora; E. Zamora vs. Collector of Internal Revenue & Collector of Internal Revenue vs. E. Zamora, Nos. L-15280, 15290, 15289 & 15281, May 31, 1963), the foregoing error is devoid of merit.

Wherefore, the appealed decision should be, as it is hereby, affirmed. With costs against petitioner-appellant, Limpan Investment Corporation.

Concepción, C. J., Barrera, Dizon. Regala, Makalintal, Bengzon, J. P. Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Decision affirmed.

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.