

**IN THE MATTER OF THE TESTATE ESTATE OF PATRICK)
PONFERRADA, DECEASED, JOAQUIN CORDERO,
ADMINISTRATOR-APPELLEE, VS. JOSE CONDA, IN HIS CAPACITY AS
REPRESENTATIVE OF THE COMMISSIO...**

G. R. No. 22369. October 15, 1966

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-22369/>

SANCHEZ, J.:

On September 18, 1953, a demand by letter was made on Patricio Ponferrada by the Bureau of Internal Revenue[[1]] for the payment of P3,805.88, covering forest charges for the period from November 2, 1946 to January 29, 1949.[2] Ponferrada made a partial payment of P262. 37, [3] leaving a balance of P3,543.51.

Ponferrada died on November 25, 1957. In the Testate Estate proceedings,[[4]] Joaquin Cordero was named Administrator.

On July 29, 1959, the BIR, thru respondent Jose Conda, filed in the proceedings just mentioned a claim for the said sum of P3,543.51. The (Administrator opposed. Ground: Prescription.[[5]]

Upon a stipulation of facts, the probate court, on August 28, 1963, declared that said claim for P3,543.51 had prescribed.[6]

BIR now appeals direct to this Court.[[7]]

1. Our Tax Code[[8]] provides for two main periods of prescription. The first refers to assessment[[9]] the second to the remedies of collection.[10] Not concerned with the first, we are with the second.

That an assessment has here been made, we do not doubt. By the very fact that, on September 18, 1953, a formal demand was made by the government upon the deceased Patricio Ponferrada for the payment of forest charges in a definite amount - P3,805.88 - assessment is deemed to have been made.[11]

September 18, 1953 then is a safe starting point for the statutory limitation to commence collection suit. Here, the court claim was filed on July 29, 1959. From September 18, 1953 to July 29, 1959, a period of 5 years, 10 months and 11 days has passed. The five-year prescriptive period had thus elapsed. Section 332 (c) of the Tax Code reads:

"(c) Where the assessment of any internal-revenue tax has been made within the period of limitation above prescribed such tax may be collected by distraint or levy or by a proceeding in court, but only if begun (1) within five years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner of Internal Revenue and the taxpayer before the expiration of such five-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.[[12]]

We note the narrowly-confined restriction of time within which a proceeding in court may be brought: "but only if begun (1) within five years after the assessment of the tax". Implicit in the words but only is that, unless otherwise

authorized by statute, the 5-year period is absolute.

The Code itself recognizes but one exception: If suit is started "prior to the expiration of any period for collection agreed upon in writing by the Commissioner of Internal Revenue and the taxpayer before the expiration of such five-year period" - which may be extended by subsequent written agreements made "before the expiration of the period previously agreed upon". In *Collector of Internal Revenue vs. Pineda, etc.*, L-14522, May 31, 1961, this Court [13] said in terms equally pertinent here, that: "the only agreement that could have suspended the running of the prescriptive period for the collection of the tax in question is, x x x a written agreement between Solano (the taxpayer) and the Collector, entered into before the expiration of the five-year prescriptive period, extending the period of limitation prescribed by law (Sec. 332 [c], N. I. R. C.)." No such written agreement exists here. The original 5-year limit governs.

2. Appellant's brief draws our attention to jurisprudence where a taxpayer may not avail of the limitations statute.[[14]] These cases are inapposite. In *Arcache*, delay in tax collection was excused because of "his [taxpayer's] own repeated requests for re-investigation and similarly repeated requests for extension of time to pay". In *Sison*, "the taxpayer's petition for reconsideration or reinvestigation had stopped the running of the five-year limitation period". In *Capitol Subdivision*, the pendency of a taxpayer's petition for clarification interrupted said period. None of these situations obtains here.

The government also urges that partial payment is "acknowledgment of the tax obligation", hence, a "waiver of the defense of prescription". But partial payment would not prevent the government from suing the taxpayer. Because, by such act of payment, the government is not thereby "persuaded to postpone collection to make him feel that the demand was not unreasonable or that no harassment or injustice is meant". Which, as stated in *Collector vs. Suyoc Consolidated Mining Co., et al.*, L-11527, November 25, 1958, is the underlying reason behind the rule that prescriptive period is arrested by the taxpayer's request for re examination or reinvestigation - even if he "has not previously waived it [prescription] in writing". And, partial payment is no waiver "in writing". Particularly is this true here where, out of the claim of P3,805.88, but P262.37 were paid; and in reference to the other claim of P6,220.65, [15] appellee made a substantial payment of P6,000.00 and acknowledged liability for P220.65.

3. The government leans heavily upon the *Barretto* case[[16]] to strengthen its claim that the action had not yet prescribed. Because, this Court there said:

"x x x Moreover, as already stated in the decision, forest charges and surcharges are payments for timber taken from public forests, and they are considered as internal revenue taxes only in the sense that they are to be collected by the Collector of Internal Revenue and the regulations for their collection are contained in the National Internal Revenue Code. Forest products are obtained under licenses issued by the Government and forest charges are in a sense contractual in origin. this No prescriptive period having been prescribed by law for this case, Sec. 43 of the Code of Civil Procedure should apply. x x x"[17]

This opinion was planted on the views of the Tax Commission (1939), as follows:

"Forest charges, which are not properly taxes but rather the price paid for exploiting national resources, need to be revised[[18]] to make them more in harmony with present-day conditions in the industry and with public policies."

"Forest charges are to be distinguished from taxes. They are, strictly speaking, the price which the Government charges for the privilege granted to concessionaires to exploit the public domain, rather than a tax imposed to support the general services of the government. x x x"[19]

Compelling reasons there are which constrain us to revise the views expressed in the *Barretto* case.

By law, forest charges have always been categorized as internal revenue taxes - for all purposes. Our statute books say so.

We start with the Tax Code. Forest charges appear below the heading "TITLE VIII - MISCELLANEOUS TAXES", under Chapter V, along with such others as tax on banks (Chapter I), taxes on receipts of insurance companies (Chapter II), franchise tax (Chapter III), and amusement taxes (Chapter IV). And Section 18 of the same Code, includes "charges on forest products" in the list of those that "are deemed to be national internal revenue taxes", thus:

"SEC. 18. Sources of revenue. - The following taxes, fees and charges are deemed to be national internal revenue taxes:

- (a) Income tax;
- (b) Estate, inheritance and gift taxes;
- (c) Specific taxes on certain articles;
- (d) Privilege taxes on business or occupation;
- (e) Documentary stamp taxes;
- (f) Mining taxes;
- (g) Miscellaneous taxes, fees and charges, namely, taxes on banks and insurance companies, franchise taxes, taxes on amusements, charges on forest products, fees for sealing weights and measures, firearms license fees, tobacco inspection fees, and water rentals. (As amended by Rep. Act No. 1476, approved June 15, 1956.)"[20]

With the exception of radio registration fees, which were eliminated, the foregoing is a reproduction in toto of the original Section 18 of the Tax Code approved on June 15, 1939.

Section 1438, Administrative Code of 1917, the law which Section 18 of the Tax Code of 1939 replaced, states in part:

"SEC. 1438. Sources of taxes. - The following taxes fees, and charges in the nature of tax are deemed to be internal-revenue taxes: x x x

(f) Charges for forest products. x x x".

Section 1438 of the Administrative Code, in turn, proceeded from Section 21, Act 2339 of the Philippine Legislature known as the Internal Revenue Law of 1914, which provides:

"ARTICLE I. - Sources of internal revenue.

SEC. 21. Sources of taxes. - The following taxes, fees, and charges in the nature of tax are deemed to be internal-revenue taxes: x x x

(f) Charges for forest products; x x x

Predecessor of this provision is Section 25 of Act 1189, known as the Internal Revenue Law of 1904, which reads:

"SEC. 25. The following sources of revenue shall be included in the internal revenue for the Philippine Islands, and the taxes imposed shall be collected by the Collector of Internal Revenue x x x and the revenue obtained therefrom shall be devoted to the support of the several provinces and of the Insular and municipal governments in the manner in this Act provided: x x x

11. Tax on forestry products. x x x."

4. Now, the law on prescription in the Tax Code does not make any distinction at all as to the source of taxes to which it is made applicable. Its broad sweep is articulated in the terms "internal-revenue taxes"[21] and "any internal-revenue tax".[22] Since "charges on forest products" are "internal-revenue taxes", they are within the coverage of the law on prescription of actions to collect "internal-revenue taxes" or "any internal-revenue tax". Had the Tax Code intended that forest charges be outside the operational rule on prescription, that statute should have so provided. We cannot insert therein any such exception now. Clearly, that is intrusion into the legislative domain in violation of a definite proscription in the Constitution.

5. Authorities are not wanting to bring home the point that forest charges are in reality internal revenue taxes, as such subject to the other provisions of internal revenue law. As early as 1918,[23] this Court held that forest charges are in the nature of an internal revenue tax on property ["forest products removed from the public forest"] and a distress warrant may be issued thereon.

One month before the Barretto decision came the Lacson case.[[24]] There, this Court made mention of the observations of the Tax Commission [heretofore textually copied], which recommended the enactment of the 1939 Internal Revenue Code. However, this Court sustained the views of the dissenting judge of the Court of Tax Appeals, thus:

"x x x There appears to be no legal basis for not considering forest charges as taxes when respondent considers them as taxes under Republic Act No. 304, as amended, thus enabling holders of backpay certificates to pay forest charges out of their backpay (B.I.R. ruling, November 22, 1955, Exh. B), and as internal revenue taxes under Chapter II, Title IX, of the Revenue Code, so as to authorize collection of said charges by distraint and levy (Op. Atty. Gen., Oct. 27, 1922). The argument that forest charges are not taxes because they are the price paid for the sale by the Government of forest products overlooks the fact that some forest charges are imposed on forest products cut and removed from unregistered private lands. (See Sec. 266, Revenue Code.) The Government cannot sell forest products which it does not own. From this it may be inferred that forest charges are not in reality the price paid for the sale by the Government of forest products; they are essentially taxes for the privilege of cutting and removing forest products x x x. They stand on the same footing as the mining taxes imposed under Title VII of the Revenue Code, x x x."[[25]]

Even the Chairman of the 1939 Tax Commission later on (November 20, 1939), in a decision he rendered as Secretary of Finance, in the case of the Dulañgan Mining Interests Co., Inc., covering forest charges, adverted to the ruling in the Hongkong and Shanghai Banking Corporation case, *supra*. He applied Section 1588 of the Administrative Code and declared that every internal revenue tax - which includes forest charges - is a lien on the property for which that tax is imposed.[[26]]

51 Am. Jur. p. 1072 is authority for the statement that:

"Taxes which, although imposed under statutes containing many variations as to their precise phraseology, are directed generally against the production, or severance from the soil, of such natural resources as timber, oil, natural gas, ores, or the like, and are normally measured according to the quantity or value of the articles produced or severed, are usually, although not invariably, regarded as excise rather than property taxes."[[27]]

The view that forest charges are much like ad valorem taxes in mining, finds jurisprudential support. In *Cebu Portland Cement Company vs. Commissioner of Internal Revenue*, L-18649, February 27, 1965, we said that this ad valorem tax (on minerals used for cement) "is a tax not on the minerals, but upon the privilege of severing or extracting the same from the earth, the government's right to exact the said impost springing from the Regalian theory of State ownership of its natural resources"[28] So saying, this Court there applied Section 306[29] under the General Administrative Provisions [of the Tax Code] which include prescription of actions for tax collection.

In another case, [30] upon the premise that forest charges "are in the coffers of the government as taxes collected", the pronouncement was that internal revenue taxes cannot be the subject of compensation. Reason: government and taxpayer "are not mutually creditors and debtors of each other" under Article 1278 of the Civil Code and a "claim for taxes is not such a debt, demand, contract or judgment as is allowed to be set-off." This decision inferentially takes forest charges out of the Barretto rule, because they are taxes - not "in a sense contractual in origin."

The thoughts expressed in the authorities just cited funnel down to one idea: forest charges are internal revenue taxes, whether one labels them taxes on property, or excise taxes, i. e., taxes upon the privilege of cutting and carting away timber and forest products. And they fall under the philosophy of taxation - to support the general services of government. They go into the general fund.[[31]]

6. The provisions on prescription fall under Title IX, entitled General Administrative Provisions. This title applies to all taxes, fees, and charges collected under the Code. In this title's first provision (Section 305), injunction is unavailing to a forest concessionaire "to restrain the collection of any national internal-revenue tax, fee, or charge imposed by this Code". By Section 306, the concessionaire may only sue for tax refunds within two years from the date of payment.[[32]] Section 316 defines the "civil remedies for the collection of internal-revenue taxes, fees, or charges" to be distraint and levy, and judicial action.[[33]]

In Section 337, the forest concessionaire [34] - like all other taxpayers -is obligated to preserve his books of account for a period of five years from the date of the last entry in each book." Why? Because the government is given a like period of five years within which to make assessment. If forest charges were "in a sense contractual in origin", then the concessionaire should be required to keep his accounting records not for five years only, but for ten years, to jibe with the 10-year prescriptive period in the Civil Code.[35]

In sum, here is the situation of a man called upon to pay forest charges. Applicable to him are the Tax Code provisions on distraint and levy; the two-year period for refund; the prohibition against injunction; the duty to keep his books for five years. But, if we were to adhere to the Barretto decision, then the law on prescription in the Code of Civil Procedure [now Art. 1144, Civil Code][[36]] must have to be scissored and pasted over Sections 331 and 332 of the Tax Code. Uniformity in the application of the Tax Code provisions would suggest that we veer away from this view.

7. Our stand is even fortified by the facts set forth in the Barretto case. Assessment was not there based on a return. The judgment on prescription therein was grounded on fraud. Because, from an examination of the books, it was found that "many purchases of logs were without invoices and sales underdeclared". The "deficiencies amounting to fraud were discovered" in 1953. And applying the provisions of the Code of Civil Procedure, it was there declared that the period for prescription should "be reckoned" from 1953. But the situation presented in said case is precisely covered by Section 332 (a) of the Tax Code, which reads:

"(a) In the case of a false or fraudulent[37] return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within ten years after the discovery of the falsity, fraud, or omission. "[38]

Our conclusion, therefore, is that the overwhelming implication from the text of the Tax Code leaves no other reasonable construction except that: Forest charges come within the compass of the prescriptive periods set forth therein.

The net result still is: From September 18, 1953 (when demand for payment was made) to July 29, 1953 (when court claim was filed), more than 5 years have elapsed. By the terms of Art. 332 (c) of the Tax Code, supra, action to collect has prescribed.

Upon the premises, the judgment appealed from is affirmed. No costs.

SO ORDERED.

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

Reyes, J. B. L., J., no part.

[1] Hereinafter referred to simply as BIR.

[2] R. A., p. 15.

[3] The date when the partial payment was made does not appear on record, altho appellee (brief, p. 1) states that such payment took place also in September, 1953.

[4] Special Proceedings No. 897, Court of First Instance of Masbate, entitled "In the matter of the Testate Estate of Patricio Ponferrada, deceased."

[5] R. A., p. 13. The amended answer setting up the defense of prescription of this claim was admitted by this Court, as part of the Record on Appeal, by resolution of December 9, 1964. Rollo, 64.

[6] R; A., p. 20.

[7] R. A., p. 20.

[8] As used here, the Tax Code refers to the present National Internal Revenue Code.

[9] Section 331, National Internal Revenue Code.

[10] Sections 316 and 332, id.

[11] Collector of Internal Revenue vs. Bautista, et al., G.R. Nos. L-12250 and L-12259, May 27, 1959.

[12] Emphasis supplied.

[13] Quoting from Collector of Internal Revenue vs. Solano, G.R. No. L-11475, July 31, 1958. See also: Republic vs. Ret, G.R. No. L-13754, March 31, 1962.

[14] Republic vs. Arcache, et al., G.R. No. L-15547, February 29, 1964; Commissioner of Internal Revenue vs. Sison, et al., G.R. No. L-13739, April 30, 1963; Commissioner of Internal Revenue vs. Capitol Subdivision, Inc., G.R. No. L-18993, April 30, 1964.

[15] Litigated below, but not on appeal.

[16] Collector of Internal Revenue vs. Pio Barretto & Sons, Inc., G.R. No. L-11805, Resolution of August 31, 1960, on the second motion for reconsideration.

[17] The original decision (May 31, 1960) in the Barretto case states that "As the court below had admitted, the Tax Commission had expressly stated that forest charges are not taxes but the price of forest products". Emphasis supplied. In the sense that forest charges are contractual in origin, the prescriptive period under Sec. 43, Code of Civil Procedure, should be 10 years from the time the right of action accrues.

[18] No revision as to the concept of forest charges was made in the 1939 Tax Code.

[19] Report of the Tax Commission, Vol. I, pp. 36, 90.

[20]Emphasis supplied.

[21] Section 331, National Internal revenue Code reads: "SEC. 331. Period of limitation upon assessment and collection. -Except as provided in the succeeding section, internal-revenue taxes shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after expiration of such period. x x x"

[22] Section 332 (c). National Internal Revenue Code, supra.

[23]Hongkong & Shanghai Banking Corporation vs. Rafferty, etc., 39 Phil. 145, 147-152, citing Sections 1438 (f) and 1588, of the Administrative Code. On Oct. 27, 1922, the Attorney-General came out with the same opinion.

[24]Collector of Internal Revenue vs. Lacson, G.R. No. L-12945, April 29, 1960.

[25] The Philippine Tax Journal, Vol. VI, pp. 741-742; emphasis supplied.

[26] Id., pp. 743-744.

[27] Emphasis supplied. An excise tax may be "roughly defined as a tax upon the performance, carrying on, or exercise of some right, privilege, activity, calling, or occupation"; and this, "although various kinds of property may be in some way involved in the exercise of the privilege or activity taxed". 51 Am. Jur., pp. 1068-1069; emphasis supplied.

[28] Emphasis supplied.

[29] By Section 306, taxpayer can only ask for refund in two years after payment.

[30] Republic vs. Mambulao Lumber Co., et al.,G.R. No. L-17725, February 28, 1962 (after the Barretto ruling); emphasis supplied.

[31] Section 362, Tax Code.

[32] In pari materia; Cebu Portland Cement Company vs. Commissioner of Internal Revenue, supra.

[33] Hongkong & Shanghai Tanking Corporation vs. Rafferty, supra. 34/ See Section 384, Tax Code, which provides that "All x x x persons required to pay internal revenue taxes" are required to "keep a journal and a ledger, or their equivalents."

[34]See Section 334, Tax Code, which provides that "All persons required to pay internal revenue taxes" are required to "keep a journal and a ledger, or their equivalents."Art. 1144 (1), Civil Code.

[35] Art. 1144(1), Civil Code.

[36] Article 1116, Civil Code, provides: "Prescription already running before the effectivity of this Code shall be governed by laws previously in force; but if since the time this code took effect the entire period herein required for prescription should elapse, the present Code shall be applicable, even though by the former laws a longer period might be required."

[37] In reference to forest charges, the invoices are the equivalent of returns.

[38]Italics supplied.

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.