

[G.R. No. 104171. February 24, 1999]

COMMISSIONER OF INTERNAL REVENUE, *petitioner*, vs. B.F. GOODRICH PHILS., INC. (now SIME DARBY INTERNATIONAL TIRE CO., INC.) and THE COURT OF APPEALS, *respondents*.**D E C I S I O N**

PANGANIBAN, J.:

Notwithstanding the expiration of the five-year prescriptive period, may the Bureau of Internal Revenue (BIR) still assess a taxpayer even after the latter has already paid the tax due, on the ground that the previous assessment was insufficient or based on a false return?

The Case

This is the main question raised before us in this Petition for Review on *Certiorari* assailing the Decision^[1] dated February 14, 1992, promulgated by the Court of Appeals^[2] in CA-GR SP No. 25100. The assailed Decision reversed the Court of Tax Appeals (CTA)^[3] which upheld the BIR commissioners assessments made beyond the five-year statute of limitations.

The Facts

The facts are undisputed.^[4] Private Respondent BF Goodrich Phils., Inc. (now Sime Darby International Tire Co. Inc.), was an American-owned and controlled corporation previous to July 3, 1974. As a condition for approving the manufacture by private respondent of tires and other rubber products, the Central Bank of the Philippines required that it should develop a rubber plantation. In compliance with this requirement, private respondent purchased from the Philippine government in 1961, under the Public Land Act and the Parity Amendment to the 1935 Constitution, certain parcels of land located in Tumajubong, Basilan, and there developed a rubber plantation.

More than a decade later, on August 2, 1973, the justice secretary rendered an opinion stating that, upon the expiration of the Parity Amendment on July 3, 1974, the ownership rights of Americans over public agricultural lands, including the right to dispose or sell their real estate, would be lost. On the basis of this Opinion, private respondent sold to Siltown Realty Philippines, Inc. on January 21, 1974, its Basilan landholding for P500,000 payable in installments. In accord with the terms of the sale, Siltown Realty Philippines, Inc. leased the said parcels of land to private respondent for a period of 25 years, with an extension of another 25 years at the latter's option.

Based on the BIRs Letter of Authority No. 10115 dated April 14, 1975, the books and accounts of private respondent were examined for the purpose of determining its tax liability for taxable year 1974. The examination resulted in the April 23, 1975 assessment of private respondent for deficiency income tax in the amount of P6,005.35, which it duly paid.

Subsequently the BIR also issued Letters of Authority Nos. 074420 RR and 074421 RR and Memorandum Authority Reference No. 749157 for the purpose of examining Siltown's business, income and tax liabilities. On the basis of this examination, the BIR commissioner issued against private respondent on October 10, 1980, an assessment for deficiency in donors tax in the amount of P1,020,850, in relation to the previously mentioned sale of its Basilan landholdings to Siltown. Apparently, the BIR deemed the consideration for the sale insufficient, and the difference between the fair market value and the actual purchase price a taxable donation.

In a letter dated November 24, 1980, private respondent contested this assessment. On April 9, 1981, it received another assessment dated March 16, 1981, which increased to P1,092,949 the amount demanded for the alleged deficiency donors tax, surcharge, interest and compromise penalty.

Private respondent appealed the correctness and the legality of these last two assessments to the CTA. After trial in due course, the CTA rendered its Decision dated March 29, 1991, the dispositive portion of which reads as follows:

WHEREFORE, the decision of the Commissioner of Internal Revenue assessing petitioner deficiency gift tax is MODIFIED and petitioner is ordered to pay the amount of P1,311,179.01 plus 10% surcharge and 20% annual interest from March 16, 1981 until fully paid provided that the maximum amount that may be collected as interest on delinquency shall in no case exceed an amount corresponding to a period of three years pursuant to Section 130(b) (1) and (c) of the 1977 Tax Code, as amended by P.D. No. 1705, which took effect on August 1, 1980.

SO ORDERED.^[5]

Undaunted, private respondent elevated the matter to the Court of Appeals, which reversed the CTA, as follows:

What is involved here is not a first assessment; nor is it one within the 5-year period stated in Section 331 above. Since what is involved in this case is a multiple assessment beyond the five-year period, the assessment must be based on the grounds provided in Section 337, and not on Section 15 of the 1974 Tax Code. Section 337 utilizes the very specific terms fraud, irregularity, and mistake. Falsity does not appear to be included in this enumeration. Falsity suffices for an assessment, which is a first assessment made within the five-year period. When it is a subsequent assessment made beyond the five-year period, then, it may be validly justified only by fraud, irregularity and mistake on the part of the taxpayer.^[6]

Hence, this Petition for Review under Rule 45 of the Rules of Court.^[7]

The Issues

Before us, petitioner raises the following issues:

I

Whether or not petitioner's right to assess herein deficiency donors tax has indeed prescribed as ruled by public respondent Court of Appeals

II

Whether or not the herein deficiency donors tax assessment for 1974 is valid and in accordance with law

Prescription is the crucial issue in the resolution of this case.

The Courts Ruling

The petition has no merit.

Main Issue: *Prescription*

The petitioner contends that the Court of Appeals erred in reversing the CTA on the issue of prescription, because its ruling was based on factual findings that should have been left undisturbed on appeal, in the absence of any showing that it had been tainted with gross error or grave abuse of discretion.^[8] The Court is not persuaded.

True, the factual findings of the CTA are generally not disturbed on appeal when supported by substantial evidence and in the absence of gross error or grave abuse of discretion. However, the CTAs application of the law to the facts of this controversy is an altogether different matter, for it involves a legal question. There is a question of law when the issue is the application of the law to a given set of facts. On the other hand, a question of fact involves the truth or falsehood of alleged facts.^[9] In the present case, the Court of Appeals ruled not on the truth or falsity of the facts found by the CTA, but on the latter's application of the law on prescription.

Section 331 of the National Internal Revenue Code provides:

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. For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day: *Provided*, That this limitation shall not apply to cases already investigated prior to the approval of this Code.

Applying this provision of law to the facts at hand, it is clear that the October 16, 1980 and the March 1981 assessments were issued by the BIR beyond the five-year statute of limitations. The Court has thoroughly studied the records of this case and found no basis to disregard the five-year period of prescription. As succinctly pronounced by the Court of Appeals:

The subsequent assessment made by the respondent Commissioner on October 10, 1980, modified by that of March 16, 1981, violates the law. Involved in this petition is the income of the petitioner for the year 1974, the returns for which were required to be filed on or before April 15 of the succeeding year. The returns for the year 1974 were duly filed by the petitioner, and assessment of taxes due for such year -- including that on the transfer of properties on June 21, 1974 -- was made on April 13, 1975 and acknowledged by Letter of Confirmation No. 101155 terminating the examination on this subject. The subsequent assessment of October 10, 1980 modified, by that of March 16, 1981, was made beyond the period expressly set in Section 331 of the National Internal Revenue Code xxx.^[10]

Petitioner relies on the CTA ruling, the salient portion of which reads:

Falsity is what we have here, and for that matter, we hasten to add that the second assessment (March 16, 1981) of the Commissioner was well-advised having been made in contemplation of his power under Section 15 of the 1974 Code (now Section 16, of NIRC) to assess the proper tax on the best evidence obtainable when there is reason to believe that a report of a taxpayer is false, incomplete or erroneous. More, when there is falsity with intent to evade tax as in this case, the ordinary period of limitation upon assessment and collection does not apply so that contrary to the averment of petitioner, the right to assess respondent has not prescribed.

What is the considered falsity? The transfer through sales of the parcels of land in Tumajubong, Lamitan, Basilan in favor of Siltown Realty for the sum of P500,000.00 only whereas said lands had been sworn to under Presidential Decree No. 76 (Dec. 6, 1972) as having a value of P2,683,467 (P2,475, 467 + P207,700) (*see Declaration of Real Property form, p. 28, and p. 15, no. 5, BIR Record*).^[11]

For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, our tax law provides a statute of limitations in the collection of taxes. Thus, the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection.^[12] As a corollary, the exceptions to the law on prescription should perforce be strictly construed.

Section 15 of the NIRC, on the other hand, provides that [w]hen a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by law or regulation, or when there is reason to believe that any such report is false, incomplete, or erroneous, the Commissioner of Internal Revenue shall assess the proper tax on the best evidence obtainable. Clearly, Section 15 does not provide an exception to the statute of limitations on the issuance of an assessment, by allowing the initial assessment to be made on the basis of the best evidence available. Having made its initial assessment in the manner prescribed, the commissioner could not have been authorized to issue, beyond the five-year prescriptive period, the second and the third assessments under consideration before us.

Nor is petitioner's claim of falsity sufficient to take the questioned assessments out of the ambit of the statute of limitations. The relevant part of then Section 332 of the NIRC, which enumerates the exceptions to the period of prescription, provides:

SEC. 332. *Exceptions as to period of limitation of assessment and collection of taxes.* -- (a) In the case of a false or fraudulent return with intent to evade a 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: xxx.

Petitioner insists that private respondent committed falsity when it sold the property for a price lesser than its declared fair market value. This fact alone did not constitute a false return which contains wrong information due to mistake, carelessness or ignorance.^[13] It is possible that real property may be sold for less than adequate consideration for a *bona fide* business purpose; in such event, the sale remains an arms length transaction. In the present case, the private respondent was compelled to sell the property even at a price less than its market value, because it would have lost all ownership rights over it upon the expiration of the parity amendment. In other words, private respondent was attempting to minimize its losses. At the same time, it was able to lease the property for 25 years, renewable for another 25. This can be regarded as another consideration on the price.

Furthermore, the fact that private respondent sold its real property for a price less than its declared fair market value did not by itself justify a finding of false return. Indeed, private respondent declared the sale in its 1974 return submitted to the BIR.^[14] *Within the five-year prescriptive period, the BIR could have issued the questioned assessment, because the declared fair market value of said property was of public record.* This it did not do, however, during all those five years. Moreover, the BIR failed to prove that respondent's 1974 return had been filed fraudulently. Equally significant was its failure to prove respondent's intent to evade the payment of the correct amount of tax.

Ineludibly, the BIR failed to show that private respondent's 1974 return was filed fraudulently with intent to evade the payment of the correct amount of tax.^[15] Moreover, even though a donor's tax, which is defined as "a tax on the privilege of transmitting one's property or property rights to another or others without adequate and full valuable consideration,"^[16] is different from capital gains tax, a tax on the gain from the sale of the taxpayer's property forming part of capital assets,^[17] the tax return filed by private respondent to report its income for the year 1974 was sufficient compliance with the legal requirement to file a return. In other words, the fact that the sale transaction may have partly resulted in a donation does not change the fact that private respondent already reported its income for 1974 by filing an income tax return.

Since the BIR failed to demonstrate clearly that private respondent had filed a fraudulent return with the intent to evade tax, or that it had failed to file a return at all, the period for assessments has obviously prescribed. Such instances of negligence or oversight on the part of the BIR cannot prejudice taxpayers, considering that the prescriptive period was precisely intended to give them peace of mind.

Based on the foregoing, a discussion of the validity and legality of the assailed assessments has become moot and unnecessary.

WHEREFORE, the Petition for Review is *DENIED* and the assailed Decision of the Court of Appeals is *AFFIRMED*. No costs.

SO ORDERED.

Romero (Chairman), Purisima, and Gonzaga-Reyes, JJ., concur.

Vitug, J., on official leave.

[1] *Rollo*, pp. 29-38.

[2] Special Eleventh Division composed of *J. Nathanael P. de Pano, Jr.*, chairman and *ponente*; and *JJ. Fortunato A. Vailoces* and *Luis L. Victor*, members, concurring.

[3] *Rollo*, pp. 39-53.

[4] See Memorandum of private respondent, pp. 2-4 and Memorandum of petitioner, pp. 2-5; *Rollo*, pp. 123-125 and 151-154, respectively. See also Decision of the CTA, pp. 1-3; *Rollo*, pp. 39-41.

[5] Decision of the CTA, p. 14; *Rollo*, p. 52.

[6] Decision of the Court of Appeals, pp. 6-7; *Rollo*, pp. 34-35.

[7] The case was submitted for resolution on March 25, 1997, when the Memorandum for petitioner was received by the Court. Private respondent's Memorandum was received earlier on February 2, 1996.

[8] Memorandum for the petitioner, pp. 12-13; *Rollo*, pp. 161-162.

[9] Commissioner of Internal Revenue v. Court of Appeals et al., GR No 124043, October 14, 1998, pp. 8-10; citing Ramos *et al.* v. Pepsi Cola Bottling Co. of the P. I. *et al.*, 19 SCRA 289, 292, February 9, 1997.

[10] Decision of the Court of Appeals, pp. 5-6; *Rollo*, pp. 33-34.

[11] Decision of the CTA, pp. 9-10; *Rollo*, pp. 47-48.

[12] Report of the Tax Commission, Vol. I, p. 98 and Republic v. Ablaza, 108 Phil. 1105, 1108. (1960); cited in Vitug, Compendium of Tax Law and Jurisprudence, p. 252, 2nd revised ed. (1989); Hector S de Leon, The National Internal Revenue Code Annotated, p. 509, 1991 ed.; and Ruben E. Agpalo, Statutory Construction, p. 227, 2nd ed. (1990).

[13] Aznar v. Court of Tax Appeals, 58 SCRA 519, 541, August 23, 1974. The word "false" is defined as an adjective which means not true or not correct (Dictionary of Law, 2nd ed., Peter Collin Publishing [1997]).

[14] Memorandum for private respondent, p. 5; *Rollo*, p. 126.

[15] Aznar, *supra*, p. 541.

[16] Vitug, *supra*, p. 192.

[17] Tuason, Jr. v. Lingad, 58 SCRA 170, 176, July 31, 1974.