

SECOND DIVISION

[G.R. No. 120880, June 05, 1997]

FERDINAND R. MARCOS II, PETITIONER, VS. COURT OF APPEALS, THE COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE AND HERMINIA D. DE GUZMAN, RESPONDENTS.

DECISION

TORRES, JR., J.:

In this Petition for Review on *Certiorari*, Government action is once again assailed as precipitate and unfair, suffering the basic and oftly implored requisites of due process of law. Specifically, the petition assails the Decision^[1] of the Court of Appeals dated November 29, 1994 in CA-G.R. SP No. 31363, where the said court held:

"In view of all the foregoing, we rule that the deficiency income tax assessments and estate tax assessment, are already final and (u)nappealable -and- the subsequent levy of real properties is a tax remedy resorted to by the government, sanctioned by Section 213 and 218 of the National Internal Revenue Code. This summary tax remedy is distinct and separate from the other tax remedies (such as Judicial Civil actions and Criminal actions), and is not affected or precluded by the pendency of any other tax remedies instituted by the government.

WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the petition for certiorari with prayer for Restraining Order and Injunction.

No pronouncements as to costs.

SO ORDERED."

More than seven years since the demise of the late Ferdinand E. Marcos, the former President of the Republic of the Philippines, the matter of the settlement of his estate, and its dues to the government in estate taxes, are still unresolved, the latter issue being now before this Court for resolution. Specifically, petitioner Ferdinand R. Marcos II, the eldest son of the decedent, questions the actuations of the respondent Commissioner of Internal Revenue in assessing, and collecting through the summary remedy of Levy on Real Properties, estate and income tax delinquencies upon the estate and properties of his father, despite the pendency of the proceedings on probate of the will of the late president, which is docketed as Sp. Proc. No. 10279 in the Regional Trial Court of Pasig, Branch 156.

Petitioner had filed with the respondent Court of Appeals a Petition for Certiorari and Prohibition with an application for writ of preliminary injunction and/or temporary

restraining order on June 28, 1993, seeking to -

I. Annul and set aside the Notices of Levy on real property dated February 22, 1993 and May 20, 1993, issued by respondent Commissioner of Internal Revenue;

II. Annul and set aside the Notices of Sale dated May 26, 1993;

III. Enjoin the Head Revenue Executive Assistant Director II (Collection Service), from proceeding with the Auction of the real properties covered by Notices of Sale.

After the parties had pleaded their case, the Court of Appeals rendered its Decision^[2] on November 29, 1994, ruling that the deficiency assessments for estate and income tax made upon the petitioner and the estate of the deceased President Marcos have already become final and unappealable, and may thus be enforced by the summary remedy of levying upon the properties of the late President, as was done by the respondent Commissioner of Internal Revenue.

"WHEREFORE, premises considered judgment is hereby rendered DISMISSING the petition for Certiorari with prayer for Restraining Order and Injunction.

No pronouncements as to cost.

SO ORDERED."

Unperturbed, petitioner is now before us assailing the validity of the appellate court's decision, assigning the following as errors:

A. RESPONDENT COURT MANIFESTLY ERRED IN RULING THAT THE SUMMARY TAX REMEDIES RESORTED TO BY THE GOVERNMENT ARE NOT AFFECTED AND PRECLUDED BY THE PENDENCY OF THE SPECIAL PROCEEDING FOR THE ALLOWANCE OF THE LATE PRESIDENT'S ALLEGED WILL. TO THE CONTRARY, THIS PROBATE PROCEEDING PRECISELY PLACED ALL PROPERTIES WHICH FORM PART OF THE LATE PRESIDENT'S ESTATE IN CUSTODIA LEGIS OF THE PROBATE COURT TO THE EXCLUSION OF ALL OTHER COURTS AND ADMINISTRATIVE AGENCIES.

B. RESPONDENT COURT ARBITRARILY ERRED IN SWEEPINGLY DECIDING THAT SINCE THE TAX ASSESSMENTS OF PETITIONER AND HIS PARENTS HAD ALREADY BECOME FINAL AND UNAPPEALABLE, THERE WAS NO NEED TO GO INTO THE MERITS OF THE GROUNDS CITED IN THE PETITION. INDEPENDENT OF WHETHER THE TAX ASSESSMENTS HAD ALREADY BECOME FINAL, HOWEVER, PETITIONER HAS THE RIGHT TO QUESTION THE UNLAWFUL MANNER AND METHOD IN WHICH TAX COLLECTION IS SOUGHT TO BE ENFORCED BY RESPONDENTS COMMISSIONER AND DE GUZMAN. THUS, RESPONDENT COURT SHOULD HAVE FAVORABLY CONSIDERED THE MERITS OF THE FOLLOWING GROUNDS IN THE PETITION:

(1) The Notices of Levy on Real Property were issued beyond the period provided in the Revenue Memorandum Circular No. 38-68.

(2) [a] The numerous pending court cases questioning the late President's ownership or interests in several properties (both personal and real) make the total value of his estate, and the consequent estate tax due, incapable of exact pecuniary determination at this time. Thus, respondents' assessment of the estate tax and their issuance of the Notices of Levy and Sale are premature, confiscatory and oppressive.

[b] Petitioner, as one of the late President's compulsory heirs, was never notified, much less served with copies of the Notices of Levy, contrary to the mandate of Section 213 of the NIRC. As such, petitioner was never given an opportunity to contest the Notices in violation of his right to due process of law.

C. ON ACCOUNT OF THE CLEAR MERIT OF THE PETITION, RESPONDENT COURT MANIFESTLY ERRED IN RULING THAT IT HAD NO POWER TO GRANT INJUNCTIVE RELIEF TO PETITIONER. SECTION 219 OF THE NIRC NOTWITHSTANDING, COURTS POSSESS THE POWER TO ISSUE A WRIT OF PRELIMINARY INJUNCTION TO RESTRAIN RESPONDENTS COMMISSIONER'S AND DE GUZMAN'S ARBITRARY METHOD OF COLLECTING THE ALLEGED DEFICIENCY ESTATE AND INCOME TAXES BY MEANS OF LEVY.

The facts as found by the appellate court are undisputed, and are hereby adopted:

"On September 29, 1989, former President Ferdinand Marcos died in Honolulu, Hawaii, USA.

On June 27, 1990, a Special Tax Audit Team was created to conduct investigations and examinations of the tax liabilities and obligations of the late president, as well as that of his family, associates and "cronies". Said audit team concluded its investigation with a Memorandum dated July 26, 1991. The investigation disclosed that the Marcoses failed to file a written notice of the death of the decedent, an estate tax returns [sic], as well as several income tax returns covering the years 1982 to 1986, - all in violation of the National Internal Revenue Code (NIRC).

Subsequently, criminal charges were filed against Mrs. Imelda R. Marcos before the Regional Trial of Quezon City for violations of Sections 82, 83 and 84 (has penalized under Sections 253 and 254 in relation to Section 252- a & b) of the National Internal Revenue Code (NIRC).

The Commissioner of Internal Revenue thereby caused the preparation and filing of the Estate Tax Return for the estate of the late president, the Income Tax Returns of the Spouses Marcos for the years 1985 to 1986, and the Income Tax Returns of petitioner Ferdinand 'Bongbong' Marcos II for the years 1982 to 1985.

On July 26, 1991, the BIR issued the following: (1) Deficiency estate tax assessment no. FAC-2-89-91-002464 (against the estate of the late president Ferdinand Marcos in the amount of P23,293,607,638.00

Pesos); (2) Deficiency income tax assessment no. FAC-1-85-91-002452 and Deficiency income tax assessment no. FAC-1-86-91-002451 (against the Spouses Ferdinand and Imelda Marcos in the amounts of P149,551.70 and P184,009,737.40 representing deficiency income tax for the years 1985 and 1986); (3) Deficiency income tax assessment nos. FAC-1-82-91-002460 to FAC-1-85-91-002463 (against petitioner Ferdinand 'Bongbong' Marcos II in the amounts of P258.70 pesos; P9,386.40 Pesos; P4,388.30 Pesos; and P6,376.60 Pesos representing his deficiency income taxes for the years 1982 to 1985).

The Commissioner of Internal Revenue avers that copies of the deficiency estate and income tax assessments were all personally and constructively served on August 26, 1991 and September 12, 1991 upon Mrs. Imelda Marcos (through her caretaker Mr. Martinez) at her last known address at No. 204 Ortega St., San Juan, M.M. (Annexes 'D' and 'E' of the Petition). Likewise, copies of the deficiency tax assessments issued against petitioner Ferdinand 'Bongbong' Marcos II were also personally and constructively served upon him (through his caretaker) on September 12, 1991, at his last known address at Don Mariano Marcos St. corner P. Guevarra St., San Juan, M.M. (Annexes 'J' and 'J-1' of the Petition). Thereafter, Formal Assessment notices were served on October 20, 1992, upon Mrs. Marcos c/o petitioner, at his office, House of Representatives, Batasan Pambansa, Quezon City. Moreover, a notice to Taxpayer inviting Mrs. Marcos (or her duly authorized representative or counsel), to a conference, was furnished the counsel of Mrs. Marcos, Dean Antonio Coronel - but to no avail.

The deficiency tax assessments were not protested administratively, by Mrs. Marcos and the other heirs of the late president, within 30 days from service of said assessments.

On February 22, 1993, the BIR Commissioner issued twenty-two notices of levy on real property against certain parcels of land owned by the Marcoses - to satisfy the alleged estate tax and deficiency income taxes of Spouses Marcos.

On May 20, 1993, four more Notices of Levy on real property were issued for the purpose of satisfying the deficiency income taxes.

On May 26, 1993, additional four (4) notices of Levy on real property were again issued. The foregoing tax remedies were resorted to pursuant to Sections 205 and 213 of the National Internal Revenue Code (NIRC).

In response to a letter dated March 12, 1993 sent by Atty. Loreto Ata (counsel of herein petitioner) calling the attention of the BIR and requesting that they be duly notified of any action taken by the BIR affecting the interest of their client Ferdinand 'Bongbong' Marcos II, as well as the interest of the late president - copies of the aforesaid notices were served on April 7, 1993 and on June 10, 1993, upon Mrs. Imelda Marcos, the petitioner, and their counsel of record, 'De Borja, Medialdea, Ata, Bello, Guevarra and Serapio Law Office'.

Notices of sale at public auction were posted on May 26, 1993, at the lobby of the City Hall of Tacloban City. The public auction for the sale of the eleven (11) parcels of land took place on July 5, 1993. There being no bidder, the lots were declared forfeited in favor of the government.

On June 25, 1993, petitioner Ferdinand 'Bongbong' Marcos II filed the instant petition for certiorari and prohibition under Rule 65 of the Rules of Court, with prayer for temporary restraining order and/or writ of preliminary injunction."

It has been repeatedly observed, and not without merit, that the enforcement of tax laws and the collection of taxes, is of paramount importance for the sustenance of government. Taxes are the lifeblood of the government and should be collected without unnecessary hindrance. However, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved."^[3]

Whether or not the proper avenues of assessment and collection of the said tax obligations were taken by the respondent Bureau is now the subject of the Court's inquiry.

Petitioner posits that notices of levy, notices of sale, and subsequent sale of properties of the late President Marcos effected by the BIR are null and void for disregarding the established procedure for the enforcement of taxes due upon the estate of the deceased. The case of *Domingo vs. Garlitos*^[4] is specifically cited to bolster the argument that "the ordinary procedure by which to settle claims of indebtedness against the estate of a deceased, person, as in an inheritance (estate) tax, is for the claimant to present a claim before the probate court so that said court may order the administrator to pay the amount therefor." This remedy is allegedly, exclusive, and cannot be effected through any other means.

Petitioner goes further, submitting that the probate court is not precluded from denying a request by the government for the immediate payment of taxes, and should order the payment of the same only within the period fixed by the probate court for the payment of all the debts of the decedent. In this regard, petitioner cites the case of *Collector of Internal Revenue vs. The Administratrix of the Estate of Echarri* (67 Phil 502), where it was held that:

"The case of *Pineda vs. Court of First Instance of Tayabas and Collector of Internal Revenue* (52 Phil 803), relied upon by the petitioner-appellant is good authority on the proposition that the court having control over the administration proceedings has jurisdiction to entertain the claim presented by the government for taxes due and to order the administrator to pay the tax should it find that the assessment was proper, and that the tax was legal, due and collectible. And the rule laid down in that case must be understood in relation to the case of *Collector of Customs vs. Haygood*, supra., as to the procedure to be followed in a