

THIRD DIVISION

[G.R. No. 135446, September 23, 2003]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. BANK OF THE PHILIPPINE ISLANDS, AS LIQUIDATOR OF PARAMOUNT ACCEPTANCE CORPORATION, RESPONDENT.

D E C I S I O N

CORONA, J.:

Respondent Bank of the Philippine Islands (BPI) is the liquidator of Paramount Acceptance Corporation (PAC), a financing corporation which was dissolved on July 17, 1989 pursuant to the January 30, 1986 resolution of its Board of Directors and stockholders, shortening its corporate life to March 31, 1987.

After the dissolution of the PAC, respondent BPI learned from the newspapers that petitioner Commissioner of Internal Revenue (CIR) filed certain criminal cases against Horacio V. Poblador and Ramon A. Albert, former president and treasurer of PAC, respectively, for willful failure to pay the corporation's final deficiency tax assessments for the years 1981 and 1982. According to the petitioner, PAC was liable for a total amount of P411,382.11 in deficiency taxes, computed as follows:

1981	
Deficiency Income Tax	P166,923.00
Deficiency Expanded Withholding Tax	3,727.01
Deficiency Documentary Stamp Tax	44,300.00
TOTAL	<u>P214,950.01</u>
1982	
Deficiency Income Tax	P150,707.20
Deficiency Percentage Tax	35,887.91
Deficiency Expanded Withholding Tax	9,836.99
TOTAL	<u>P196,432.10^[1]</u>

Respondent wrote to the petitioner, claiming that it was not aware of any assessment regarding any tax deficiency owed by PAC, but that it was willing to compromise and pay the deficiency tax. At the same time, respondent asked for the withdrawal of the criminal cases against Poblador and Albert. The parties agreed to settle for not less than 30% of the basic income and documentary stamps taxes and 100% of the basic expanded withholding tax due. Respondent paid to the petitioner a total amount of P119,815.13, broken down as follows:

1981	
Deficiency Income Tax	P 31,298.10
Deficiency Expanded Withholding Tax	1,625.01

Deficiency Documentary Stamp Tax	44,000.00
TOTAL	P 76,923.11
1982	
Deficiency Income Tax	P 28,257.60
Deficiency Percentage Tax	4,797.43
Deficiency Expanded Withholding Tax	9,836.99
TOTAL	P 42,892.02^[2]

However, in spite of the payment, petitioner continued to prosecute the criminal cases against Poblador and Albert: Criminal Cases Nos. 91-5800, 91-5801 and 91-5802, involving the 1981 assessments, before the Regional Trial Court of Makati, Branch 150; and, Criminal Case No. 91-4007 involving the 1982 percentage tax deficiency, pending in the Regional Trial Court of Makati, Branch 143.

Respondent, in its August 18, 1992 letter to petitioner, pointed out that the assessments were not sent to the proper address and asked for the refund of the P119,815.13 it paid under the compromise agreement since the criminal cases against Poblador and Albert were not dropped as agreed upon. Petitioner did not answer the letter and continued to prosecute the said cases.

At the trial of Criminal Case Nos. 91-5800, 5801 and 5802, the following facts were established:

- (a) that Paramount filed its Annual Income Tax Return for 1985 on April 2, 1986, in which it disclosed in the space provided for in the Return, that its current address was 8th Floor, FCC Bldg., Paseo de Roxas, Makati, Metro Manila, while its "Previous Address (if different from current year)" was Ground Flr., DCG Building cor. De la Rosa and Legaspi Sts. Makati, Metro Manila;
- (b) that Paramount filed its Annual Income Tax Return for the three months of 1986, i.e., up to March 31, 1986, on April 30, 1986 and indicated in the proper space provided for in the return that its current address was "BPI Building, Ayala Avenue, Makati, Metro Manila while its "Previous address (if different from current year)" was 8th Floor, FCC Building, Paseo de Roxas, Makati, M.M.

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- (e) that on July 17, 1987 the SEC issued to Paramount the Certificate of Filing of Amended Articles of Incorporation shortening the term of existence and thereby dissolving the corporation;
- (f) that after issuing such Certificate, the SEC sent a letter dated July 14, 1987 to the respondent, informing him that pursuant to **Executive Order No. 1026** which requires a