lib.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JULIO SIAYNGCO,
Petitioner,

versus

C.T.A. CASE NO. 2524

THE TACLOBAN CITY
ASSESSOR & CITY BOARD
OF ASSESSMENT APPEALS
OF TACLOBAN CITY,
Respondents.

11/19/75

x - - - - - - - - - x

D E C I S I O N

This is an appeal from a decision of the Board of Assessment Appeals of Tacloban City.

It appears that the petitioner, Julio Siayngco, is the owner of a lot described in Tax Declaration No. 17189 as residential, located at Wilson St., now Justice Enage St., Tacloban City, assessed at ₱5,868.00 effective 1961. The lot was re-assessed by the City Assessor of Tacloban as commercial land, third class, at ₱37.50 per square meter or, ₱55,110.00 under Tax Declaration No. 26436 effective 1969. Notice of this assessment was received by petitioner only on April 19, 1971. On April 29, 1971, petitioner appealed to the Tacloban City Board of Assessment Appeals.

On March 9, 1973, petitioner received the decision of the City Board of Assessment Appeals reducing the assessment by 30% and making it effective 1971. Not satisfied with this decision, petitioner appealed to this Court sending his petition for review by registered mail on April 6, 1973.

Respondent invokes the defense of lack of jurisdiction asserting that: (1) petitioner's appeal is cognizable by the Central Board of Tax (Assessment) Appeals under Presidential Decree No. 76 and not by this Court; and (2) even assuming arguendo that petitioner's case is appealable to this Court, the present appeal was filed beyond the 30-day period prescribed in Section 11 of Republic Act No. 1125. We have disposed of this defense in our Resolution dated January 16, 1974 wherein we upheld the jurisdiction of this Court to take cognizance of this appeal and it is unnecessary for us to dwell further on this issue.

Petitioner for his part contends that the re-assessment under Tax Declaration No. 26436 is void because he received notice thereon only on April 19, 1971 while the assessment is made effective 1969.

Petitioner admits that owners of the lots adjacent to the property in question were duly notified of the re-assessment for the same period. It seems that if petitioner did not receive notice earlier than April 19, 1971 it was because he had left Tacloban and resided in Manila or Quezon City without informing the city assessor of his new address. At any rate, it is a principle of taxation that the owner of a real estate can not avoid an assessment or a re-assessment thereof by merely making himself inaccessible to the authorized assessor of the government. Thus, Section 47 of Republic Act No. 3068, the Charter of the City of Tacloban, provides that in the event the owner of the real estate is unknown the City Assessor shall nevertheless list all real estate for taxation and charge the tax against such unknown owner.

We find no merit in petitioner's pretension that the assessment of ₱37.50 per square meter is unreasonable. The evidence shows that Tax Declaration No. 17189 classifies the lot involved herein as a piece of residential land but in Tax Declaration No. 26436 the same property is reclassified from residential lot to third class commercial lot. The evidence further show that on May 13, 1968 petitioner sold a portion of said lot with an area of 26.69 square meters to the Philippine Government at ₱120.00 per square meter to be used for widening the street fronting the same. The law requires that real property shall be assessed at its true and full value or cash value or fair market value (C.N. Hodges v. Board of Assessment Appeals of Iloilo City, CTA Case Nos. 361 and 362, November 21, 1958; Vicente Diego Locsin and Agustin T. Locsin v. Cirilo P. Gallos, in his capacity as Bacolod City Board of Assessment [Tax] Appeals, CTA Case No. 1787, Dec. 18, 1967). There is no showing that the condition of the lot in question that was left after the sale was any different from that part that was sold. We presume therefore that it can command the sale value as the portion bought by the government. Under these circumstances it can hardly be said that an assessment of ₱37.50 per square meter is unreasonable.

However, Tax Declaration No. 26436 should not reflect a total area of 1,467 square meters since on May 13, 1968, petitioner sold to the government 21.69 square meters. What remained after the sale to the government was 1,445.32 square meters and at the rate of ₱37.50 per square meter the assessment should be only ₱37,939.65.

WHEREFORE, the decision appealed from is hereby modified. The assessment covered by Tax Declaration No. 26436 is hereby reduced to ₱37,930.00. Without pronouncement as to costs.

SO ORDERED.

Quezon City, November 19, 1975.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge