REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ERNESTO TAMPARONG, JR., as represented by **ATTY. JOSE VOLTAIRE BAUTISTA,**
Petitioner,

CTA CASE No. 9520

- versus -

Members:

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

COMMISSIONER OF INTERNAL REVENUE, VENERANDO B. HOMEZ, REVENUE DISTRICT OFFICER (OIC) and **ATTY. GLEN A. GERALDINO, REGIONAL DIRECTOR-BIR REVENUE REGION 16,**
Respondents.

Promulgated:
FEB 17 2022 4:00 PM

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's Resolution is petioner's "Motion for Reconsideration" (**MR**) filed on 13 July 2021. Respondents filed their "Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated 09 July 2021)" on 27 October 2021. The MR seeks the reversal of this Court's Decision dated 08 June 2021 (**assailed Decision**) in the above-captioned case. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, premises considered, the Petition for Review filed by Ernesto Tamparong, Jr., as represented by Atty. Jose Voltaire Bautista, is hereby **DENIED** for lack of jurisdiction.
>
> **SO ORDERED.**
>
> ...

In denying the petition, the Court found that it had no jurisdiction to rule on the propriety of the assailed tax assessment against the estate of Briccio Tamparong, Sr. (**Briccio**), the same having become final and executory. The Court also deemed petitioner not to be a real party-in-interest as regards the prior issue. It also found that it is devoid of jurisdiction to settle the issues regarding the propriety of Felisa Neri Vda. De Tamparong's (**Felisa**'s) paraphernal property's inclusion in Briccio's estate (and its subsequent inclusion in the properties subject to an auction sale by the Bureau of Internal Revenue [**BIR**] to satisfy the latter's tax liablities).

In his MR, petitioner also contends that despite the finality of the tax assessment, the Court may still tackle the issues he raised as they fall within the purview of "other matters" pursuant to Section 7 of Republic Act (**RA**) No. 1125 which reads, thusly:

> ...
>
> **Section 7.** ***Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>
> > (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue[.]
>
> ...

Petitioner also argues that he is a real-party-in-interest as he is Felisa's compulsory heir and Felisa's property was allegedly erroneously included as part of Briccio's estate.

Respondents, on the other hand, maintain the correctness of the assailed Decision. They reitereate this Court's lack of jurisdiction over petitioner's action and the latter's absence of legal standing to pursue the same.

We resolve.

After an assiduous review of the parties' arguments and the case's records, the Court finds the present MR bereft of merit.

At the onset it must be noted that petitioner's arguments have already been exhaustively tackled in the assailed Decision. Nevertheless, the Court shall expound on some matters for emphasis.

First, the "other matters" clause cited above does not give the Court an unbridled authority to rule on every matter perceivably related to a tax issue no matter how remote. Moreover, the clause does not give this Court power to reopen assessments which have already attained finality.

As petitioner admits, the tax assessment of Briccio's estate has long become final. However, petitioner still asks the Court to disregard the same by force of the "other matters" clause alone. Such an isolated interpretation of Section 7 of RA No. 1125 as petitioner proposes runs afoul to the well-established principles of prescription and limitations of jurisdiction.

Prescription in our legal system serves a valuable purpose. It is by no means some arbitrary deadline imposed for mere convenience. The Supreme Court in *Pablo R. Antonio, Jr. v. Engr. Emilio M. Morales as Sole Proprietor of E. M. Morales & Associates*[1] explains, thusly:

> ...
> ... The prescriptive statutes serve to protect those who are diligent and vigilant, not those who sleep on their rights. The rationale behind the prescription of actions is to prevent fraudulent and stale claims from springing up at great distances of time, thus surprising the parties or their representatives when the facts have become obscure from the lapse of time or the defective memory or death or

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[1] G.R. No. 165552, 23 January 2007.

> removal of the witnesses. Prescription applies even to the most meritorious claims.[2]
>
> ...

Corollary thereto, actions that have prescribed leave the Court without jurisdiction to try the same. It must be remembered that like any other courts of law, its scope of jurisdiction is provided by statute. Section 7 of RA No. 1125 notwithstanding, the confines of this Court's jurisdiction as regards tax assessments is also defined by the National Internal Revenue Code (**NIRC**). Section 228, of NIRC provides:

> ...
>
> **SEC. 228.** ***Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:
>
> ...
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period**; otherwise, the decision shall become final, executory and demandable.[3]
>
> ...

It is clear from the above provision that a judicial protest to an assessment must be elevated to this Court within thirty (30) days from the adverse decision of the Commissioner of Internal Revenue (**CIR**) or from the expiration of the 180-day period given to the CIR to decide the case. The same provision also provides that such protest must be pursued by the taxpayer adversely affected. Neither of these two requirements have been complied with by petitioner.

On this aspect, the Court certainly no longer has jurisdiction to rule on the present petition on the grounds of not only prescription but also on account of the fact that petitioner is not the taxpayer subject of the CIR's assessment.

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[2] Citation omitted.

[3] Emphasis supplied.

Second, assuming that the petition was filed on time, the Court would still lack jurisdiction over its subject matter. Although the petition masquerades as a direct attack on a tax assessment's validity, in reality, petitioner's main action is for the exclusion of the subject property from Briccio's estate.

To settle this issue, the Court shall be called upon to determine actual ownership of the property. The records reveal that although TCT No. 790 covering the subject property is in the name of Felisa, respondents' relied on a tax declaration in Briccio's name as its basis for including the subject property as part of the latter's estate. Given that the assessment's finality is admitted by the parties, the ownership of the subject property appears to be the only issue in dispute.

Incidentally, while this Court may assume authority to determine property ownership as an ancilliary matter (only for the purpose of acertaining the correct amount of tax liability), such determination is not conclusive. This issue of ownership is best settled in an action for quieting of title[4] over which the regional trial court has jurisdiction. In *Jenestor B. Caldito and Maria Filomena T. Caldito v. Isagani V. Obado and Gereon V. Obado*[5] the Supreme Court enumerated the requisites for an action to quiet title, to wit:

> ...
>
> ...(1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.[6]
>
> ...

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4 RULE 63
Declaratory Relief and Similar Remedies

> **Section 1.** *Who may file petition.* — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. (Bar Matter No. 803, 17 February 1998).
>
> An action for the reformation of an instrument, to quiet title to real property or remove clouds therefrom, or to consolidate ownership under Article 1607 of the Civil Code, may be brought under this Rule.
>
> ...

5 G.R. No. 181596, 30 January 2017.

6 Citation omitted and italics in the original text.

Granted that petitioner claims legal standing as a compulsory heir of Felisa and that petitioner's right over the subject property is being jeopardized by Briccio's tax declaration and repondents' actions pursuant thereto, We remain of view that herein petitioner pursued the wrong remedy in bringing this matter before the Court.

Absent any other compelling argument, the Court is inclined to maintain its ruling in the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration filed by petitioner Ernesto Tamparong, Jr., as represented by Atty. Jose Voltaire Bautista on 13 July 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LANEE S. CUI-DAVID
Associate Justice