REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANNABELLE Y. PUEY,
Petitioner,

- versus -

C.T.A. CASE NO. 5528

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated: JUN 25 1999

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DECISION

This case involves an appeal from the decision of Respondent Commissioner of Internal Revenue regarding the deficiency income tax assessment of the Petitioner for the year 1989 in the total amount of ₱1,470,880.00.

Petitioner is a Filipino citizen with residence at 408 Bougainvilla St. Ayala Alabang Village, Alabang Muntinlupa, Metro Manila.

The antecedent facts of the case are as follows:

By virtue of a judicial order dissolving the conjugal partnership of gains between spouses Manuel Puey and Annabelle Puey, Petitioner was adjudged the sole owner of one residential house located at 2116 Paraiso St., Dasmariñas Village, Makati City, which was originally their conjugal home (Exhs. "A", "A-1").

After the separation, Petitioner decided to go to the United States with her children and stayed there for two (2) years. In the meantime, the subject property was leased to the Secretary of State of the United States of America by virtue of a "Contract of Lease" executed by her husband, Manuel Puey, for and in her behalf on August 12, 1986 (pp. 19 to 21, CTA records).

When Petitioner returned to the Philippines, she decided to sell the subject property on March 3, 1989, with the lease constituted thereon still subsisting, hence, said lease was allegedly stipulated in the Deed of Absolute Sale.

Petitioner paid the five percent (5%) capital gains tax and documentary stamp taxes on said sale in the sum of ₱175,000.00 (Exhs. "B", "C" and "D").

On March 25, 1993, Petitioner received a Notice of Assessment for alleged deficiency income tax in the total amount of ₱1,470,880.00, inclusive of surcharge and interest, on the basis of Respondent's claim that the subject property sold was not a capital asset but an ordinary asset, thus subjecting said sale to the 35% income tax instead of only 5% capital gains tax.

Petitioner protested the assessment in a letter, dated March 26. 1993 (Exh. "F").

On April 23, 1997, Petitioner received a final decision of the Commissioner of Internal Revenue, dated February 12, 1997, denying her request for reconsideration (Exh. "I"). Hence, Petitioner filed the instant Petition for Review with this Court on May 19, 1997.

The issue in this case is whether or not Petitioner is liable to pay the deficiency income tax assessment in the amount of ₱1,470,880.00.

After a careful scrutiny of the records of this case, this Court finds it unnecessary to delve on the issue of the correctness of the assessment in view of the compromise agreement that has been entered into by both parties.

Records show that during the trial of this case, Petitioner submitted an application for the settlement of her pending tax assessment in line with the program of the Bureau of Internal Revenue for the acceleration of collection of taxes through compromise under Section 204 of the Tax Code, as amended, pursuant to Revenue Memorandum Order No. 61-97, dated November 16, 1997 (p. 126, CTA records). The application has been accepted by the BIR with the issuance of Authority to Accept Payment (ATAP). Petitioner paid the amount of ₱367,720.00 representing 50% of the basic tax assessed for the year

1989 (pp. 127 to 128, CTA records). This Court holds that by accepting Petitioner's offer of settlement and having received the compromise amount, as evidenced by the Authority to Accept Payment, Respondent has indicated his willingness to dissolve Petitioner's liability for alleged deficiency income tax by compromise. In fact, Respondent has already withdrawn the BIR records, presumably for the purpose of issuing the corresponding Authority to Cancel Assessment (ATCA) for the completion of the compromise settlement under the aforementioned Revenue Memorandum Order No. 61-97. However, for one reason or another, the ATCA is still pending with the office of the Regional Director for signature, per Petitioner's manifestation (Minutes of the Session, April 13, 1998, p. 142, CTA records).

During the hearing held on March 9, 1998, counsel for Respondent confirmed the fact of compromise and further manifested that what is left to be done is the issuance of the authority to cancel the assessment. Thereafter, counsel for Respondent no longer made any appearance in court and, as stated earlier, withdrew the BIR records of the above-entitled case in connection with the issuance of the authority to cancel assessment. Neither did counsel for Respondent offer any evidence or submit his memorandum in support of his case.

From the aforementioned circumstances, as well as a careful scrutiny of the records of this case, We can conclude that a compromise between Petitioner and Respondent has been finally reached in so far as the former's income tax deficiency for 1989 is concerned.

Compromise is a contract whereby the parties by making reciprocal concessions, avoid a litigation or put an end to one already commenced **(Godoy vs. Court of Appeals, 250 SCRA 629)**.

It should be stressed that the settlement of disputes by way of compromise is an accepted. nay. desirable practice encouraged by the courts of law and administrative tribunals **(Jag and Haggar Jeans and Sportswear Corporation vs. NLRC, 241 SCRA 635)**.

WHEREFORE, in view of the foregoing, assessment no. FAS-2-89-93-000922 is hereby **CANCELLED,** by reason of the compromise agreement reached by Respondent and Petitioner with respect to the latter's income tax deficiency for the taxable year 1989.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultationwith the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals