REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

JOSE B. GAMBOA,
Petitioner,

- versus -

C.T.A.
CASE NO. 704

JAIME C. PARROCO,
Respondent.

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RESOLUTION

The petitioner is the owner of Hacienda Balabag in La Carlota, Negros Occidental. He failed to pay the real property tax due on the said hacienda for the year 1952 allegedly because his sugar plantation was destroyed by typhoon in that year. As real property taxes were condoned in certain provinces affected by said typhoon, petitioner believed that Congress would also enact a law remitting the real property tax in Negros Occidental for the same year. In the meantime, respondent, Municipal Treasurer of La Carlota, made various attempts to collect the tax from petitioner but the latter refused. Accordingly, respondent distrained, sometime in 1958,130 piculs of sugar owned by petitioner and deposited in the warehouse of the Ma-ao Sugar Central. On January 9, 1959, petitioner filed with the Court of First Instance of Negros Occidental (Civil Case No. 5137) a petition for "Prohibition and Damages", petitioner alleging that the right of the Municipal Treasurer of La Carlota to collect the delinquent tax had already prescribed. In an order of the Court of First

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Instance of Negros Occidental dated September 5, 1959, the petition was dismissed for lack of jurisdiction and for failure of the petition to state facts sufficient to constitute a cause of action.

An "Exception and Notice of Appeal" was filed by petitioner with the Court of First Instance of Negros Occidental and thereafter a petition for review was filed with this Court in the above entitled case.

When this case was called for hearing in Bacolod City, the Court suggested to the parties that they first consider the question of the jurisdiction of this Court to take cognizance of the case, it appearing that it does not involve an appeal from a decision of the Board of Assessment Appeals of Negros Occidental. The parties agreed to submit the case on the question of jurisdiction after filing their respective memorandum.

Viewed as an appeal from the order of the Court of First Instance of Negros Occidental dismissing the petition for "Prohibition and Damages", this Court has no jurisdiction to entertain the appeal. Republic Act No. 1125 creating the Court of Tax Appeals does not empower said Court to review decisions or orders of the Courts of First Instance. Moreover, the legality of the action of respondent in distraining 130 piculs of sugar belonging to petitioner, which was raised in the petition for prohibition in Civil Case No. 5137 of the Court of First

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Instance of Negros Occidental, has become moot, respondent having paid the real property tax in question on September 20, 1959 and the distrained sugar having been released.

May this Court take cognizance of the case as an original action contesting the legality of the collection of the real property tax in question and for recovery of the tax already paid?

In cases arising under the Assessment Law (Com. Act No. 470, as amended) the jurisdiction of this Court is limited to appeals from decisions of provincial Boards of Assessment Appeals. The pertinent provisions of Section 7 of Republic Act No. 1125 reads:

> "Sec. 7. Jurisdiction.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided-
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> x x x x
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> (3) Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto."

It will be observed that only appeals from the decisions of provincial or city Boards of Assessment Appeals are cognizable by this Court. But it is argued that there was, and until now, no Board of Assessment Appeals in Negros Occidental, the members thereof not having been appointed. The case of petitioner could not, therefore, have been appealed to said Board. To deny petitioner the right to ap-

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peal to this Court would, it is alleged, be tantamount to depriving him of any judicial remedy.

There appears to be some misconception as to the nature and scope of the duties and functions of provincial and city Boards of Assessment Appeals created under Commonwealth Act No. 470 and the various charters of chartered cities. Under the Assessment Law (C. A. No. 470), the sole function of provincial assessors relates to the listing and valuation of real property in their respective provinces[1], and the only function of the provincial Board of Assessment Appeals created in each province is to review, on appeal or motu proprio, any action taken by the provincial assessor in regard to valuation of real property for purposes of taxation[2]. After the assessed value of a piece of real property has been determined, the same is certified to the provincial treasurer for collection of the annual real property tax[3]. The same is true in cases involving assessment of real property in chartered cities.[4]

The law does not confer upon the Board of Assessment Appeals, in cases arising under the Assessment Law, the power to review any action of the provincial treasurer in matters affecting collection

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[1] See Secs. 7-16, Com. Act No. 470.

[2] See Secs. 17-19, id.

[3] See Secs. 18, 21-41, id.

[4] See, for instance, Secs. 53-77, R.A. No. 409 (Charter of City of Manila).

of real property taxes. Since the legality of the action taken by the provincial treasurer, or of his deputies (the municipal treasurers), in the performance of his duty to collect real property taxes is not subject to review by the Board of Assessment Appeals, it follows that this Court has no jurisdiction over such cases. They remain cognizable by the courts of general jurisdiction as before the enactment of Republic Act No. 1125. The allegation that to deny petitioner his right to appeal to this Court would be to refuse him judicial remedy is not correct; what has happened is that the case of petitioner has not been properly handled.)

The decision of the Supreme Court in Blaquera v. Rodriguez, G. R. No. L-11192, April 16, 1958, has been cited in support of the proposition that cases involving the validity of the collection of real property taxes come with the jurisdiction of the Court of Tax Appeals. The portion of the decision quoted hereunder has apparently been misunderstood:

> "It is true that plaintiff claims that it has already fully paid the deficiency taxes demanded from it by the defendant, but this claim alone cannot take this case out of the jurisdiction of the Court of Tax Appeals, for the same still comes within the purview of the words <u>disputed assessment</u>. The correctness or incorrectness of a tax assessment is for that court to determine and not for the regular courts of justice. Nor can this case be placed beyond the jurisdiction of that court simply because certain consequential or moral damages are demanded, for they are but incidental to the main case. This can be passed upon by that court if and when the evidence so warrants."

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The case of Blaquera v. Rodriguez involved deficiency internal revenue taxes, and the doctrine laid down therein must be held to apply solely to internal revenue cases. It has no application whatsoever to the collection of real property taxes by provincial treasurers and their deputies. Neither does it apply to municipal taxes.

Finding that this Court has no jurisdiction over the instant case, the same is hereby dismissed. No costs.

SO ORDERED.

Manila, July 27, 1960.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

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