REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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

- versus -

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

CTA CASE No. 9520

Members:

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

Promulgated:
JUN 0 8 2021 4:20 pm

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Ernesto Tamparong, Jr. (**petitioner/Ernesto, Jr.**) seeking the annulment of

[1] Filed on 17 January 2017, Division Docket, Volume I, pp. 10-78, with annexes.
Pursuant to Section 3(a)(1) of Rule 4 on Jurisdiction of the Court of the *2005 Revised Rules of the Court of Tax Appeals, as amended.*
...
SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
...
(1) **Decisions of the Commissioner of Internal Revenue** in cases involving **disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation

the Notice of Auction Sale and estate tax assessment against the estate of Briccio Tamparong, Sr. (**Briccio**), amounting to ₱1,001,579,194.77. It also seeks the exclusion of a property covered by Transfer Certificate of Title (**TCT**) No. 790 from the list of properties subject of the auction sale for the satisfaction of the estate tax liabilities of Briccio.

Herein petitioner Ernesto, Jr. is the grandson and heir of the late Mrs. Felisa Neri Vda. de Tamparong (**Felisa**) whose estate is being settled in the case entitled "In the Matter of the Petition for the Probate of the Will of Felisa Neri Vda. de Tamparong", docketed as Special Proceeding No. 1216 and pending before the Regional Trial Court of Cagayan de Oro (**RTC-CDO**), Branch 18.[2]

On the other hand, respondent Commissioner of Internal Revenue (**respondent CIR**) is vested with the power and authority, among others, to decide disputed assessments, and other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended, and other laws administered by the Bureau of Internal Revenue (**BIR**). While, respondent Venerando B. Homez, Revenue District Officer Officer-in-Charge (**RDO-OIC Homez**), is the head of Revenue District Office (**RDO**) No. 98 that issued the assessment against the estate of Briccio. Whereas, respondent Regional Director Glen A. Geraldino (**RD Geraldino**) of Revenue Region No. 16 issued the assailed Notice of Auction Sale.[3]

FACTS OF THE CASE

Casimiro Tamparong, Sr. (**Casimiro, Sr.**) and Felisa were blessed with three (3) children, Ernesto, Sr., Briccio and Casimiro, Jr. (all surnamed Tamparong).[4]

On 20 September 1972, Casimiro, Sr. died without a will. Soon thereafter, Briccio initiated an intestate proceeding for the settlement of his father's estate with the Court of First Instance of Misamis Oriental, 15th Judicial District, Branch IX, Cagayan de Oro City (now,

thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

2 Paragraph 3, Parties, petitioner's Memorandum, Division Docket, Volume II, p. 888.

3 Paragraphs 4-4.2, id.

4 TSN dated 29 June 2017, p. 45.

RTC-CDO, Branch 9). He was thereafter appointed as the administrator of his father's intestate estate.[5]

Less than a year later or on 09 June 1973, Felisa also died but, this time, she had left a will.[6] At the time of her death, she was survived by her compulsory heirs, Casimiro, Jr., Briccio and the children of Ernesto, Sr., namely, Veronica Tamparong-Borja (**Veronica**), Anamarie Tamparong (**Anamarie**), Antonio Tamparong (**Antonio**) and petitioner Ernesto, Jr.[7] Subsequently, Briccio filed a petition for the probate of his mother's will.[8]

Eventually, the intestate proceeding of Casimiro, Sr.'s estate and the petition for the probate of Felisa's will were consolidated with Briccio as the administrator and executor.[9] In his capacity as such, on 26 March 1991, he filed a Manifestation containing inventories of the conjugal properties of his parents Casimiro, Sr. and Felisa, as well as the paraphernal properties of the latter.[10] The subject property covered by TCT No. 790 was listed and included as Felisa's paraphernal property.[11]

Later, Veronica replaced Briccio as administrator of both Casimiro, Sr. and Felisa's estates.[12] On 14 October 2013, she filed with the probate court the inventories of the conjugal properties of Casimiro, Sr. and Felisa (including the latter's paraphernal properties).[13]

On 05 December 2016, Veronica obtained a copy of the Notice of Auction Sale dated 10 November 2016 issued by respondent RD Geraldino against Briccio's estate. There, Felisa's property was included in the list of properties belonging to Briccio (and which were set to be auctioned to pay off his estate's tax liabilities).[14]

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5 Paragraphs 10 - 10.1, Petition for Review, Division Docket, Volume I, p. 13; See Annexes A and B, attached to the Petition for Review, id., pp. 27-31.
6 Paragraph 11, id.
7 Paragraph II, Testamento, Annex "C" attached to the Petition for Review, id., p. 32.
8 Paragraph 11.1, id., p. 13.
9 Paragraph 11.2, id.
10 Paragraph 13, id., p. 14.
11 Paragraph 13.1, id.
12 Paragraph 14, id.
13 Paragraph 15, id; See Annex F, attached to the Petition for Review, id., pp. 52-53.
14 Paragraph 16, id; See Annex L, attached to the Petition for Review, id., pp. 70-73.

On 14 December 2016, Veronica reached out to respondent RDO-OIC Homez through a letter where she explained that one of the properties listed in the Notice of Auction Sale belongs to Felisa and not to Briccio. She also executed her sworn affidavit to attest to the truth of her claim. In the same letter, she sought that the said property be excluded from the auction sale for the satisfaction of the tax liabilities of Briccio's estate.[15]

On the same day, RTC-CDO, Branch 23, acting on the Motion for Issuance of a Temporary Restraining Order (**TRO**) filed by the heirs of Glenn Tamparong, issued a TRO valid for twenty (20) days enjoining the holding of the auction sale. The court also ordered the re-raffling of the case since it is a duly designated special drugs court.[16] The case was then re-raffled to RTC-CDO, Branch 18.[17]

On 28 December 2016, prior to the issued TRO's expiration, respondent RD Geraldino again issued a Notice of Auction Sale resetting the auction sale on 18 January 2017.[18]

PROCEEDINGS BEFORE THE COURT

A day before the scheduled auction sale or on 17 January 2017, petitioner filed the instant Petition for Review before this Court.[19] The instant petition included a "Very Urgent Application for TRO, Writ of Preliminary Injunction and/or Status *Quo Ante* Order".

Respondent CIR opposed the motion and sought the dismissal of the case on the ground of lack of jurisdiction. According to him, the assessment for estate tax liability has already attained finality and collection remedies may already be pursued. On 10 April 2017, he also filed his Answer.[20]

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15 Paragraph 19, id., p. 15; See Annex I, attached to the Petition for Review, id., pp. 60-63.
16 Paragraph 20, id.
17 Paragraph 20.1, id.
18 Paragraph 21, id.; See Annex K, attached to the Petition for Review, id., pp. 68-69.
19 Id., pp. 10-78, with annexes. The case was initially raffled to the Court's First Division. Subsequently, pursuant to CTA Administrative Circular No. 02-2018, Reorganizing the Three Divisions of the Court, the case was re-raffled to the Second Division.
20 Id., pp. 216-232.

In a Resolution dated 17 April 2017[21], the Court denied respondent's Motion to Dismiss stating that the lack of jurisdiction on its part was not clearly evident and that the factual issues raised would be better threshed out in a full-blown trial. As for petitioner's prayer for the issuance of a TRO, writ of preliminary injunction and/or status *quo ante* order, the Court likewise denied the same in the Resolution dated 07 February 2018[22].

Petitioner moved for the reconsideration of the 07 February 2018 Resolution, while respondent CIR still insisted on its motion to dismiss. The Court denied both motions in the Resolution[23] dated 13 July 2018.

Subsequently, the Court issued a Notice of Pre-Trial Conference[24] setting the case for Pre-Trial Conference on 30 August 2018. The parties then filed their respective Pre-Trial Briefs.[25] The case was later on referred to mediation before the Philippine Mediation Center Unit - Court of Tax Appeals (**PMC-CTA**). However, the parties decided not to have their case mediated.[26]

The Pre-Trial Conference was later held where the parties were ordered to submit their Joint Stipulation of Facts and Issues (**JSFI**) within twenty (20) days from date.[27] Accordingly, the parties filed their JSFI[28] on 29 April 2019. The Court approved and adopted the same in the Pre-Trial Order[29] dated 07 May 2019. The pre-trial was terminated thereafter.

In the trial that ensued, petitioner presented Veronica as his lone witness. She executed a Judicial Affidavit[30] in lieu of her direct testimony.

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21 Id., pp. 235-239.
22 Id., pp. 479-485.
23 Id., Volume II, pp. 552-559.
24 Id., pp. 562-564.
25 Petitioner filed his Pre-Trial Brief on 24 August 2018 (id., pp. 572-584), whereas respondent CIR filed his Pre-Trial Brief on 28 August 2018 (id., pp. 585-589).
26 PMC-CTA Form 6 - No Agreement to Mediate, id., p. 663.
27 Order dated 28 March 2019, id., p. 701.
28 Id., pp. 711-718.
29 Id., pp. 733-736.
30 Exhibit "P-18", id., pp. 668-677.

On the witness stand, Veronica testified that the Notice of Auction Sale showed respondents' intention to sell at a public auction the properties of Briccio's estate, which included a property actually belonging to Felisa's estate. According to her, Tax Declaration No. G-071634 for the subject property bears the name "Briccio Tamparong" yet Felisa's name as owner is shown on the property's certificate of title (TCT No. 790). Both the tax declaration and the certificate of title pertain to the same Cadastral Lot 2237 and the boundaries shown on both documents reveal one and the same property.

Veronica went further to state that respondents' attack on the Court's jurisdiction is inconsistent with their earlier stance before RTC-CDO, Branch 23. She recounted that, during the hearing before the latter court, respondents' counsel questioned the RTC's jurisdiction and insisted that it is the CTA which has jurisdiction to enjoin the collection of taxes.

On cross-examination[31], when asked about the tax declaration that reflects the name of Briccio as the owner of the property, Veronica confirmed that indeed his name was reflected as owner thereof.

On re-direct examination, when probed why the tax declaration carried Briccio as owner, Veronica admitted to not having any personal knowledge on why his name appeared therein. However, she maintained that the subject property belonged to her grandmother Felisa as shown in the certificate of title. Moreover, her uncle (Briccio) became the estate's administrator and this allowed him access to all the records. She also declared that she replaced her uncle as administrator (of Felisa's estate) when Briccio sold properties without any court order. According to her, everyone in their family knew that their grandmother (Felisa) owned the property. She also continued to pay the fees as the administrator of Felisa's estate.

Later, respondent CIR manifested that he will no longer present evidence as the issues raised are purely legal. Accordingly, on 01 July 2019, petitioner filed his Formal Offer of Evidence (**FOE**).[32]

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31 TSN dated 10 June 2019, p. 10.
32 Division Docket, Volume II, pp. 765-775.

In a Resolution dated 26 July 2019[33], the Court admitted petitioner's exhibits "P-4"[34], "P-5"[35], "P-13"[36], "P-15"[37], "P-16"[38], "P-18"[39], "P-18-1"[40] and "P-20"[41], and denied the rest of the exhibits for failure to submit the duly marked exhibits. Petitioner sought the partial reconsideration of the denied exhibits but the Court maintained their inadmissibility in its Resolution[42] dated 24 January 2020.

Still later, respondent CIR filed his Memorandum[43] on 30 August 2019, whereas petitioner filed his Memorandum with Tender of Excluded Evidence[44] on 16 March 2020. The Court then submitted the case for decision in the Resolution[45] dated 15 June 2020.

<u>ISSUES</u>

During the pre-trial, the parties failed to stipulate on the issues to be resolved by the Court. Thus, We reproduce the issues raised in their respective Pre-Trial Briefs, as follows:

I.
WHETHER THE HONORABLE COURT HAS JURISDICTION OVER THE INSTANT PETITION;

II.
WHETHER PETITIONER ERNESTO TAMPARONG, JR. HAS A CAUSE OF ACTION AGAINST RESPONDENTS COMMISSIONER OF INTERNAL REVENUE, *ET AL.*;

III.
WHETHER RESPONDENTS BUREAU OF INTERNAL REVENUE REVENUE REGION NO. 16, *ET AL.* COMMITTED GRAVE AND REVERSIBLE ERRORS WHEN IT INCLUDED PROPERTIES NOT

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33 Id., pp. 807-808.
34 Formally offered as "Petition dated 20 1973".
35 Formally offered as "Order dated 26 October 1973".
36 Formally offered as "Order dated 14 December 2016 issued by Branch 23 of the Regional Trial Court of Cagayan de Oro City".
37 Formally offered as "First Notice of Auction Sale dated 28 December 2016".
38 Formally offered as "Tax Declaration No. G-071634".
39 Formally offered as "Judicial Affidavit of Veronica Tamparong Borja".
40 Formally offered as "Signature of Veronica Tamparong Borja".
41 Formally offered as "Transcript of Stenographic Notes of the hearing dated 14 December 2016 before Branch 23 of the Regional Trial Court of Cagayan de Oro City.
42 Division Docket, Volume II, pp. 882-885.
43 Id., pp. 811-821.
44 Id., pp. 887-901.
45 Id., p. 902.

BELONGING TO THE ESTATE OF BRICCIO TAMPARONG IN ASSESSING AND COMPUTING THE ESTATE TAXES TO BE SETTLED; and,

IV.

WHETHER RESPONDENTS BUREAU OF INTERNAL REVENUE REVENUE REGION NO. 16, *ET AL.* COMMITTED GRAVE AND REVERSIBLE ERRORS AMOUNTING TO LACK OF JURISDICTION WHEN THEY STILL INCLUDED, DESPITE NOTICE, IN THE LIST OF PROPERTIES TO BE AUCTIONED TO SETTLE TAXES DUE FROM THE ESTATE OF BRICCIO TAMPARONG, THE SUBJECT PROPERTY REGISTERED IN THE NAME OF AND BELONGING TO THE LATE FELISA NERI VDA. DE TAMPARONG.

ARGUMENTS

Petitioner essentially argues that the assessment for estate tax liability against the estate of Briccio is erroneous for including a property not belonging to it. He explains that the subject property clearly belongs to the estate of Felisa as evidenced by the certificate of title, even though the tax declaration showed the name of Briccio as owner. Petitioner contends that the certificate of title is an absolute and indefeasible evidence of ownership of the property in favor of the person whose name appears therein. Thus, applying the doctrine of indefeasibility of title, the tax declaration cannot prevail over the certificate of title. Undeniably, the subject property belongs to Felisa's estate and should be excluded from the auction sale to satistfy the liabilities of Briccio.

Concomitantly, petitioner maintains that the Notice of Auction Sale is invalid for including a property not belonging to Briccio's estate. He posits that under the National Internal Revenue Code (**NIRC**) of 1997, as amended, an estate tax is based on all the properties of the decedent at the time of death. Accordingly, it was erroneous for respondents to include a property belonging to Felisa's estate. Considering this mistaken inclusion, the assessment and the Notice of Auction Sale should be annulled.

Respondent CIR, on the other hand, has remained firm in his stance that this Court has no jurisdiction over the present petition. The Final Assessment Notice/Formal Letter of Demand (**FAN/FLD**) was issued as early as 2012 and no protest was filed to dispute the same. The assessment enjoys the presumption of correctness and it is incumbent upon the taxpayer to dispute the same. Failure to do so renders the assessment final, executory and demandable.

Respondent CIR likewise questions the legal standing of petitioner to seek the nullification of the assessment against Briccio's estate. According to him, petitioner could also no longer question the assessment against Briccio's estate as the same had already attained finality (for failure to timely file a protest thereto). Petitioner's cause of action is thus wanting considering that respondent CIR is already exercising collection remedies.

RULING OF THE COURT

After an assiduous review of the records and allegations, We hold that the Court lacks jurisdiction to decide upon the merits of the instant Petition for Review for the reasons essayed below.

From the parties' compiled issues, We break down below the legal questions in order to resolve the present petition, *in seriatim*.

THE ASSESSMENT AGAINST THE ESTATE OF BRICCIO TAMPARONG HAS ATTAINED FINALITY THUS THE COURT FAILED TO ACQUIRE JURISDICTION

Petitioner invokes the jurisdiction of this Court in his bid to nullify the assessment against the estate of Briccio for erroneously including a property he had interest in as an heir of Felisa.

Section 228 of the NIRC of 1997, as amended, lays down the procedure for disputing an assessment, to wit:

> ...
>
> **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.

...

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.

Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

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.[46]

...

Corollary thereto, Section 7 of Republic Act (**RA**) No. 1125[47], as amended, enumerates the cases within the jurisdiction of the Court, *viz*:

...

SEC. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.][48]

...

A careful scrutiny of the case records show an obvious discord between petitioner's prayer to nullify the assessment and the

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[46] Emphasis supplied.
[47] AN ACT CREATING THE COURT OF TAX APPEALS.
[48] Emphasis supplied.

reckoning point within which to appeal to this Court. An appeal against a disputed assessment must be brought to this Court within thirty (30) days *from the receipt of the decision, or the lapse of the period within which to decide*. Petitioner, however, reckoned the 30-day appeal period *from his knowledge of the impending auction sale* of Briccio's properties to satisfy the estate's liability. Obviously, the appeal period had long closed on petitioner.

As respondent CIR aptly pointed out, the assessment against Briccio's estate was not disputed and has consequently attained finality. The assessment stage had long lapsed without any protest filed against it. In fact, respondent CIR is already exercising his administrative remedies for the collection of the delinquent estate tax due.

Petitioner's insistence that the assessment against the estate of Briccio did not attain finality for being erroneous is specious.

As a general rule, tax assessments by tax examiners are presumed correct and made in good faith. All presumptions are in favor of the correctness of a tax assessment. It is to be presumed, however, that such assessment was based on sufficient evidence. Upon the introduction of the assessment in evidence, a *prima facie* case of liability on the part of the taxpayer is made. If a taxpayer files a petition for review in the CTA and assails the assessment, the *prima facie* presumption is that the assessment made by the BIR is correct, and that in preparing the same, the BIR personnel regularly performed their duties.[49]

The very essence of disputing an assessment is for the taxpayer to overthrow the presumption of correctness and establish that the BIR erred in arriving at such assessment. Regrettably, the estate of Briccio was amiss in disputing the assessment and discharging the burden of overcoming the presumption. Petitioner cannot now belatedly attack what has already become final for being erroneous.

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[49] *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, 31 March 2005.

For the above reasons, the Court could not take cognizance of this lost appeal.

PETITIONER IS NOT A REAL PARTY IN INTEREST

Even if We lend succor to petitioner's argument that the assessment did not attain finality, he cannot be considered a real party in interest to appeal a "disputed assessment". Section 2 of Rule 3 of the Rules of Civil Procedure defines a real party in interest as follows:

> ...
>
> **Sec. 2.** *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.
>
> ...

To our mind, petitioner is not a real party in interest with respect to the estate tax assessment against Briccio's estate. In tax assessments, it is the taxpayer who disputes the same. Here, petitioner is neither the taxpayer nor acting for and in behalf of the estate of Briccio.

It is not disputed in the case records that petitioner is not an heir of Briccio.[50] The records even strongly confirm that petitioner is actually suing in his capacity as an heir of Felisa and is claiming interest over a property that was allegedly mistakenly included in the estate of Briccio. Petitioner's interest, therefore, lies only with the subject property and not on the whole estate of Briccio subject of the estate tax assessment.

With the above, it can hardly be concluded that petitioner stands to be benefited or injured by the outcome of the appeal of the estate tax assessment against Briccio. His inchoate interest over the subject property (as heir of Felisa) cannot be equated with having an interest over the estate tax assessment of Briccio's estate, to which the subject property was included.

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[50] Paragraph 4(a), JSFI, Division Docket, Volume II, p. 712.

INJUNCTION WILL NOT LIE TO EXCLUDE THE SUBJECT PROPERTY FROM THE AUCTION SALE

Petitioner also sought to enjoin the auction sale to have the subject property excluded from the list of properties to be auctioned off. Unfortunately, the Court cannot accord petitioner the relief he prayed for.

It bears stressing that, as a rule, no court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by the NIRC of 1997, as amended.[51] The rule, however, admits of an exception, codified in the law creating this Court. Section 11 of RA 1125, as amended, provides:

> ...
>
> **Sec. 11.** *Who may Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue...may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action referred to in Section 7(a)(2) herein.
>
> ...
>
> No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue...shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: *Provided, however,* **That when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer the Court at any stage of the proceeding may suspend the said collection** and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.[52]
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> ...

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[51] **Section 218.** *Injunction not Available to Restrain Collection of Tax.*

[52] Emphasis supplied and italics in the original text.

From the foregoing, it is evident that the Court can exercise its injunctive power to suspend the collection of tax upon finding that the interest of the Government and/or the taxpayer will be jeopardized by the immediate collection pending appeal. However, a careful analysis of the factual *milieu* of the case reveals that the injunctive relief contemplated in Section 11 of RA 1125, as amended, is not what is being sought.

As discussed above, petitioner does not appear to be the real party in interest who may appeal *insofar as the assessment against Briccio's estate is concerned*. He has no interest over the suspension of collection of the estate tax assessment against Briccio. His interest is riveted to Felisa's estate that includes the subject property from the properties to be sold.

Ultimately and in reality, the crux of the controversy of petitioner's case rests on the propriety of the inclusion of Felisa's property in Briccio's estate (which property is set to be sold for auction). Petitioner seeks to remove the subject property from the impending auction and insists that the BIR should not have been, in the first place, included this property in its assessment of Briccio's estate. This Court, being a special court with limited jurisdiction, is bereft of any authority to grant relief to petitioner.

It is noteworthy that to date, the probate of Felisa's will is still pending before the RTC-CDO, Branch 18. Ascertaining rights over the subject property and those entitled thereto is clearly outside Our jurisdiction and to exercise the same will be impinging upon the authority of the probate court to do so. The settlement of estate of a deceased person lies with the latter court, to the exclusion of other courts. Section 1 of Rule 73 of the Rules of Court on Special Proceedings states:

> ...
>
> **Sec. 1.** *Where estate of deceased persons settled.* – If the decedent is an inhabitant of the Philippines at the time of death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death... **The court first taking cognizance of the settlement of**

the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts ...[53]

...

Corollary thereto, Section 6[54] of Rule 78 of the Rules of Court on Special Proceedings, provides that letters administration may be granted at the discretion of the probate court if no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond or a person dies intestate. The appointed administrator, in turn, is duty-bound to return to the court within three (3) months from appointment the true inventory and appraisal of all the real and personal estate of the deceased which has come to his possession or knowledge.[55]

In *Aranas v. Mercado, et al.*[56], the Supreme Court elucidated in this wise:

...

The probate court is authorized to determine the issue of ownership of properties for purposes of their inclusion or exclusion from the inventory to be submitted by the administrator, but its determination shall only be provisional unless the interested parties are all heirs of the decedent, or the question is one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired. **Its jurisdiction extend to**

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53 Emphasis supplied.

54 **Rule 78** - Letters Testamentary and of Administration, When and to Whom Issued
Sec. 6. *When and to whom letters of administration granted.* — If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate, administration shall be granted:
(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;
(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if may be granted to one or more of the principal creditors, if competent and willing to serve;
(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

55 **Rule 83** – Inventory and Appraisal; Provision for Support of Family
Section 1. *Inventory and appraisal to be returned within three months.* – Within three (3) months after his appointment every executor or administrator shall return to the court a true inventory and appraisal of all the real and personal estate of the deceased which has come into his possession or knowledge. In the appraisement of such estate, the court may order one or more of the inheritance tax appraisers to give his or their assistance.

56 G.R. No. 156407, 15 January 2014; Citations omitted, emphasis supplied and italics in the original text.

> **matters incidental or collateral to the settlement and distribution of the estate, such as the determination of the status of each heir and whether property included in the inventory is the conjugal or exclusive property of the deceased spouse.**
>
> ...
>
> The objective of the *Rules of Court* in requiring the inventory and appraisal of the estate of the decedent is "to aid the court in revising the accounts and determining the liabilities of the executor or the administrator, and in **making a final and equitable distribution (partition) of the estate and otherwise to facilitate the administration of the estate.**"...
>
> ...

Thus, in order to accurately settle and distribute the estate of the deceased, it is important that the properties included in the inventory be preserved pending the decision of the probate court. Else, the allowance of the will and the determination of the net share of each heir, as will be determined by the probate court, are rendered nugatory if the properties were already dissipated. Perforce, it is within the probate court's power to issue orders ancillary to the administration of the estate including the injunctive relief being sought.

As a final word, We cannot overemphasize that our authority should only be confined to matters clearly falling within our limited jurisdiction. Undeniably, the main issue in the case at bar does not involve the interpretation and application of the NIRC of 1997, as amended, and other related laws administered by the BIR. Tackling the merits of this case behooves upon Us to delve on the ownership of the subject property. Regrettably, such power does not belong to Us.

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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice