REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PEDRO L. FLORES,
Petitioner,

- versus -

C.T.A.
CASE NO. 151

BOARD OF TAX APPEAL OF
CAMARINES SUR, ET AL.,
Respondents.

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Sept. 14, 1956

DECISION

On June 30, 1955, the petitioner herein, Pedro L. Flores, filed a petition for review before this Court which he denominated "Appeal" designating the "Board of Tax Appeal of Camarines Sur, et al." as appellees.

The "Appeal", from all appearances, seeks to review an alleged decision of the Board of Tax Appeals of Camarines Sur assessing for real estate tax purposes, petitioner's residential house located at No. 23 Abella St., City of Naga, Camarines Sur, in the amount of ₱8,000.00 which the petitioner claims to be worth not more than ₱3,500.00.

Not knowing who the other appellees are with such vague title given by petitioner to his original pleading designating the "Board of Tax Appeal of Camarines Sur et al." as appellees, this Court, following established rules and procedure, in an order dated July 8, 1955, required solely the Board of Tax Appeals of Camarines Sur "to file its answer to said petition within ten (10) days from receipt of a copy of this Order, and to certify to this Court within the same period, the complete record of the case with the pages duly numbered" and with the admonition that "in case of failure of the appellee to file its answer within the given period of ten (10) days, the Court will thenceforth proceed to hear the evidence for the appellant in the absence of the appellee and decide the case accordingly." The order of this Court requiring the respondent Board of Tax Appeals of Camarines Sur, although addressed and sent directly to the latter by the Clerk of this Court by registered mail on July 11, 1955, must have been referred to the Board of Tax (Assessment) Appeals of the City of Naga as may be gleaned in the 1st Indorsement of July 15, 1955, of R. Toledana, City Auditor and Chairman of the Board of Tax Appeals of Naga City, addressed to the Clerk of this Court. In said indorsement, the Chairman of the Board of Tax Appeals of Naga City stated that his office had no record whatsoever of any appeal interposed by the petitioner, Pedro L. Flores, regarding the assessment of the latter's house located in Naga City, Camarines Sur.

In his 2nd Indorsement of July 22, 1955, the Clerk of this Court sent a copy of the petition for review filed with this Court by the petitioner to the Board of Tax Appeals of Camarines Sur for the guidance of the latter. In his 3rd Indorsement of July 25, 1955, R. Toledana, City Auditor and Chairman of the Board of Tax Appeals of Naga City reiterated his previous manifestation as contained in his 1st Indorsement of July 15, 1955 to the Clerk of this Court, to the effect that his office had no record whatsoever of the appeal allegedly taken by the petitioner of the assessment made on his residential house much less has there been a deliberation taken by the Board of Tax Appeals of Naga City regarding said alleged assessment.

In his 4th Indorsement of July 29, 1955, sent by registered mail, the Clerk of this Court again referred the matter to the "Chairman of the Board of Tax Appeals, Naga, Camarines Sur, for whatever action he may deem proper to take in the premises, with particular reference to the Order of the Court of Tax Appeals, dated July 8, 1955, and the corresponding letter of the same date as well as the 2nd Indorsement of this Office, dated July 22, 1955."

Notwithstanding the order of this Court of July 8, 1955 and the follow-up communications sent by the Clerk of this Court to the party respondent named in the petition for review, neither the Board of Tax Appeals of Camarines Sur nor the Board of Tax Appeals of Naga City filed their answer up to the present time to the petition for review or "Appeal" filed by the petitioner, Pedro L. Flores.

At the scheduled hearing of this case on August 13 and 14, 1956, neither the petitioner nor his counsel appeared before this Court. Likewise, the respondent Board of Tax Appeals of Camarines Sur failed to appear either through its representative or counsel. Thereupon, this Court issued an order in open court dismissing the case for non-appearance of the parties.

Two days after the dismissal of the case, or more particularly on August 15, 1956, the Clerk of this Court received a letter from the herein petitioner by registered mail duly posted at Naga City on August 9, 1956, manifesting his inability as well as his counsel to appear at the scheduled hearing, requesting at the same time that the case be considered submitted for decision based on the pleadings. In lieu of oral argument, the petitioner enclosed with his letter of August 9, 1955, a pleading entitled "Brief for the Appellant". Instead, therefore, of abiding by the bench order of this Court of August 13, 1956, dismissing this case for failure of the parties to appear at the scheduled hearing and for the additional failure on the part of the respondent named in the petition for review or "Appeal" to file its answer within the time given to it in the order of this Court of July 5, 1955, we shall now proceed to decide the case solely on the basis of the pleadings now before us.

In the first place, is the Board of Tax Appeals of the Province of Camarines Sur, named as respondent in the petition for review of the petitioner, the real party in interest in the present case?

Under sections 17, 18 and 19 of Commonwealth Act No. 470, otherwise known as the Assessment Law, each province is provided with a Provincial Board of Tax Appeals to entertain appeals on assessments for real estate tax purposes made by the provincial assessor, involving real property within the province.

Under sections 37, 38 and 39 of Republic Act No. 305, otherwise known as the Charter of Naga City, the said city itself has its own City Board of Tax Appeals, to entertain appeals on assessments for real estate tax purposes, made by the city assessor, involving real property within the city.

In paragraphs 1 and 2 of the present petition for review, the petitioner admits that his residential house which was allegedly assessed for real estate tax purposes by the City Assessor of Naga at ₱8,000.00 is located within the city limits. If at all, the proper party in interest in the present case should be the Board of Tax Appeals of Naga City (section 37, Republic Act No. 305) and not the Board of Tax Appeals of the Province of Camarines Sur, as erroneously designated by the petitioner in his pleadings as party respondent. Under Section 2, Rule 3 of the Rules of Court, every action must be prosecuted in the name of the real party in interest.

In the second place, the title of petitioner's pleading is equally deficient designating the other respondents with the vague and all-embracing continuando "et al". Under Section 1, Rule 6, of the

Rules of Court "the names of the parties plaintiff and defendant must all be mentioned in the complaint." Thus, the Clerk of this Court rightly issued the summons solely to the Board of Tax Appeals of Camarines Sur, the only party respondent named specifically in the pleadings of petitioner.

In the third place, even on the basis of the allegations contained in the pleadings, it may be safely deduced that up to the filing of the present appeal, no action has as yet been taken by the Board of Tax Appeals of Naga City on the alleged assessment made by the City Assessor of that city which the petitioner herein claims to be exorbitant, unjust and arbitrary. Under paragraph 3, section 7 of Republic Act No. 1125, this Court may exercise appellate jurisdiction to review by appeal in assessment cases, only the decisions of Provincial and City Boards of Tax (Assessment) Appeals.

It appears from the pleadings filed by the petitioner, that sometime in 1949, he began the construction of a residential house at No. 23 Abella St., Naga City, Camarines Sur, which, it is claimed, is still incomplete up to the present time due to financial difficulties. Petitioner claims to have spent so far around ₱3,500.00 for said house.

On March 6, 1950, the petitioner received a notice of assessment, Exhibit A (p. 36, C.T.A. rec.) from the City Assessor of Naga City, informing him that his house has been assessed at ₱8,000.00, for purposes of real estate taxes.

In a letter (p. 24, C.T.A. rec.) dated July 13, 1950, the petitioner wrote a letter to the City Assessor of Naga City complaining against the assessment as being too excessive and exhorbitant. From petitioner's own admission, the City Assessor of Naga City failed to take any action on the matter. (p. 1, Brief for the Appellant). In view of such failure, the petitioner, on July 31, 1951, sent a letter (p. 25, C.T.A. rec.) to the Board of Tax (Assessment) Appeals of Camarines Sur requesting a revision of the assessment on his property as made by the City Assessor. Petitioner admits that the Board of Tax (Assessment) Appeals of Camarines Sur, likewise failed to take any action on the matter (p. 2, Brief for the Appellant). However, the petitioner received a letter dated May 23, 1955 from the City Treasurer of Naga (Exhibit B, pp. 37, 38, C.T.A. rec.) informing him that by virtue of the delinquency of the real estate tax on his residential house, he (the City Treasurer) was proceeding to vest title to the property in question in favor of the city government by reason of said delinquency. Forthwith, the petitioner brought the present petition for review to this Court which he denominated "Appeal" and docketed as C.T.A. Case No. 151.

Under section 31 of the Charter of Naga City (Republic Act No. 305) as is the case in other chartered cities and provinces, owners of real property are required to declare for real estate taxation the value of their real properties newly acquired or improved, and in case of failure to make such return or declaration, the City or Provincial Assessors are authorized to make the assessments themselves. (Sections 12, 14, Commonwealth Act No. 470; section 32, Republic Act No. 305). Under sections 33 and 35 of the Charter of Naga City (Republic Act No. 305) the City Assessor makes the assessment of property for real estate tax purposes and notifies the property owner accordingly. In the event the said owners do not agree with such assessments, they must, pursuant to section 35 of Republic Act No. 305, file their complaint with the City Assessor, who shall hear such complaints regarding the assessments of the taxes. Under the same section of Republic Act No. 305, the City Assessor must render a decision on such complaints and make an entry thereof in a book of entry and notify the property owner accordingly. Under section 37 of the same Act, within thirty (30) days after such decision, the property owner who feels aggrieved by such decision of the City Assessor may appeal to the City Board of Tax (Assessment) Appeals by filing with the latter a written evidence in the owner's possession relating to such assessment and valuation.

It appears from petitioner's own pleadings that the above procedure has not been complied with by him and much less has the City Assessor of Naga rendered a formal decision on the matter of the valuation of petitioner's property. In other words, there appears to be no formal decision of the City Assessor of Naga, rendered in accordance with section 35 of the Charter of Naga City (Republic Act No. 305) from which an appeal could be interposed to the Board of Tax (Assessment) Appeals of said city pursuant to section 37 of the charter. However, even conceding that the letter, Exhibit A (p. 36, C.T.A. rec.) of the City Assessor of Naga to the City Treasurer of said city, a copy of which was furnished the petitioner, could be considered for all legal intents and purposes as a formal decision from which an appeal could be interposed to the Board of Tax (Assessment) Appeals of the City of Naga pursuant to section 37 of the City Charter, nevertheless, the petitioner has also failed to comply with the requirement imposed under the last mentioned section by perfecting his appeal within thirty (30) days after the entry of such decision by the City Assessor. It appears from petitioner's brief that he received on March 6, 1950 the notice, Exhibit A, of the City Assessor assessing his property at ₱8,000.00 and that he questioned the assessment before the Board of Tax (Assessment) Appeals of Naga City on July 31, 1951, or a period of more than one year from receipt of the letter of the City Assessor. From the very admissions of petitioner, it is evident that he has failed to comply with the thirty-day reglementary period fixed under section 37 of the Charter of Naga City. Assuming further that the appeal taken by the petitioner to the Board of Tax (Assessment) Appeals of Naga City was made on time and in due form, still it would be premature at this stage to elevate the case to this Court by way of appeal, as the petitioner has in fact done, since, as admitted by him, the Board of Tax (Assessment) Appeals of Naga City has not yet rendered a decision on the matter. Under paragraph 3, section 7 of Republic Act No. 1125, this Court may exercise exclusive appellate jurisdiction to review by appeal decisions of the Provincial or City Boards of Assessment Appeals.

To summarize as we find it, the petitioner has not named as respondent the real party in interest. He has failed to perfect his appeal to the Board of Tax (Assessment) Appeals of Naga City within the reglementary period of thirty (30) days as prescribed in section 37 of Republic Act No. 305. He did not exhaust all possible administrative remedies before coming to this Court. Without waiting and pressing for the reply of the City Assessor to his request for reconsideration he appealed to the Board of Tax (Assessment) Appeals of Naga City, and without waiting and pressing for the decision of said Board he came to this Court.

Before closing, we cannot help but make the following observations for the benefit of the Chairman of the Board of Tax (Assessment) Appeals of Naga

City and in the interest of public service.

When the Board is made a party in a litigation as in the present instance, and this Court requires said Board to answer the petition for review of the taxpayer, it is not enough to state in a series of communications by way of indorsements to this Court, as the Chairman of the Board did, that the petitioner-taxpayer has never appealed his case to said Board and then let the matter stay at that. The Board should immediately refer the matter to the City Attorney who is the chief legal adviser of the city (see section 24, Republic Act No. 305) for whatever action said official may decide to take in the premises in the protection of the interest of the city. The answer we required and expected of the respondent Board in our order of July 8, 1955, are not the series of indorsements of the Chairman of the Board. What we required and expected was a formal legal pleading or answer prepared by the City Attorney or his assistants stating all possible defenses in behalf of the respondent Board so that all the issues could be joined.

It is quite fortunate indeed for the City of Naga that due to the numerous defects and damaging admissions in the pleadings of the petitioner filed before this Court, we could not in law and in fact decide the case in his favor. Had it been otherwise, the City of Naga would have stood to lose much needed revenue without benefit of the legal assistance and advice of the City Attorney who, under the law, is bound to represent the city in all civil cases wherein the city or any officer thereof, in his official capacity, is a party.

WHEREFORE, let this case be, as it is hereby dismissed, for lack of cause of action and jurisdiction, with costs against the petitioner.

Let a copy of this decision be served to the Chairman of the Board of Tax Appeals, the City Mayor and the City Attorney of Naga City for their future guidance.

SO ORDERED.

Manila, September 14, 1956.

Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge