REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FAR EAST BANK AND TRUST COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 6050

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 08 2001

x - x

DECISION

The case at bar seeks the refund/tax credit of the amount of P3,291,996.40 allegedly representing Petitioner's overpaid Capital Gains Tax and Documentary Stamp Tax for the taxable year 1998.

As represented, Petitioner is a banking corporation duly organized and existing under and by virtue of Philippine laws, with principal office at the Far East Bank Center, Sen. Gil J. Puyat Avenue, Makati City.

On 26 March 1998, Petitioner filed an application (Exhibit M) with the Clerk of Court and Ex-officio Provincial Sheriff of the Regional Trial Court of Tuguegarao-Cagayan, for extra-judicial foreclosure of real estate mortgage of properties covered by eleven (11) Transfer Certificates of Title, in satisfaction of the loan incurred by Carlos

Chua Uy, Robert Chua Uy and Henry Chua Uy, which, as of 8 May 1998, stood at P71,596,106.24 inclusive of interest, penalties and fees.

On May 8, 1998, the date of auction sale of the mortgaged properties (Exhibit N), Petitioner submitted a formal bid of P27,703,000.00 (Exhibit O) eventually emerging as the highest bidder therein with a bid price of P27,703,000.00 which was only in partial satisfaction of the mortgagor's loan obligation amounting to P71,596,106.24 inclusive of interest and penalties, filing fees, publication fees, appraisal fees and attorney's fees (Exhibit P).

On May 12, 1998, the sheriff issued the corresponding certificate of sale (COS) (Exhibit Q) wherein it was erroneously stated that Petitioner had submitted a bid price of P71,596,106.24 (Exhibit Q-1), when, in fact, Petitioner's official bid was only for P27,703,000.00.

On May 15, 1998, Petitioner, relying in good faith on the Sheriff's Certificate of Sale, paid thru its Tuguegarao-Cagayan Branch, the Sheriff's fee and judicial costs, due from the sale.

On May 18, 1998, on the basis of the Sheriff's Certificate of Sale, Petitioner filed a Capital Gains Tax (CGT) return based on the erroneous sale price of P71,596,106.24 and paid the amount of P4,295,766.40 as capital gains tax for the account of the mortgagors (Exhibits T, V, W, X, X-2).

Likewise, on May 18, 1998, Petitioner also filed a Documentary Stamp Tax (DST) declaration and paid the amount of P1,073,955.00 based on the erroneous sale price of P71,596,106.24 (Exhibits V, W-2, Y, Y-1 and Y-2).

On May 19, 1998, realizing the error in the sale price-tax base as stated in the Sheriff's Certificate of Sale and its error in the payment of the corresponding capital gains and documentary stamp taxes, Petitioner immediately wrote Respondent's Regional Director for Cagayan Valley to claim for reimbursement (Exhibit A).

On the same date, May 19, 1998, Respondent's Regional Director replied that reimbursement was no longer feasible since the taxes, CGT and DST, have already been paid and the official receipts for such payment issued and that Petitioner should file a tax refund/credit certificate instead (Exhibit C). On May 26, 1998, Petitioner forthwith filed a written claim for a tax credit certificate/refund in the amount of P3,291,996.40 with the Regional Director of Region 2, Bureau of Internal Revenue (Exhibit B).

On June 17, 1998, the Sheriff issued an Amended Certificate of Sale (Exhibit [illegible]) in REM Case 1209 attesting to Petitioner's correct winning bid of P27,703,000.00. On the same date, the Sheriff also executed an affidavit attesting to the error he had made on the Certificate of Sale dated 12 May 1998 (Exhibit S).

Due to lack of official action on the part of Respondent and to hedge against the running of the statutory limitations, Petitioner filed with this Court on April 4, 2000 the instant petition for review.

Respondent, while not disputing the relatively simple material facts alleged by Petitioner, raised the herein Special and Affirmative Defenses:

(1) Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by Respondent's Bureau;

(2) The amount of P3,291,996.40 being claimed by Petitioner representing alleged over-remittance of Capital Gains and Documentary Stamp Taxes for taxable year 1998 was not properly documented;

(3) In an action for refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit;

(4) Petitioner must show that it has complied with the provisions of Sections 204(c) and 229 of the Tax Code, as amended;

(5) Petitioner miserably failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected; and

(6) Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (Commissioner of Internal Revenue v. Ledesma, 31 SCRA 95) and as such, they are looked upon with disfavor (Western Minolco Corp. v. Commissioner of Internal Revenue, 124 SCRA 121).

The issues presented by the parties may be summarized into one and that is whether or not Petitioner is legally and factually entitled to its claim for refund in the amount of P3,291,996.40 representing alleged overpaid capital gains and documentary stamp taxes.

We resolve the legal issue of herein case in favor of Petitioner. The fact that Petitioner overpaid thru error or mistake the Capital Gains Tax and Documentary Stamp Tax for 1998 as a consequence of an erroneous tax base and the fact that Respondent accepted the payment gave rise to the application of the legal principle of quasi-contract or *solutio indebiti* under Article 2154 of the New Civil Code, which provides that "if something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises."

The Supreme Court in the case of **Ramie Textiles, Inc. v. Mathay, Sr., 89 SCRA 586**, ruled that the quasi-contract of *solutio indebiti* is one of the concrete manifestations of the time-honored doctrine that no person shall unjustly enrich himself at the expense of another. Hence, it would seem unedifying for the government, that knowing it has no right at all to collect or receive money for alleged taxes paid by mistake, it would be reluctant to return the same.

Taxpayers owe honesty to the government just as government owes fairness to taxpayers **(Commissioner of Internal Revenue v. Tokyo Shipping Co., Ltd., 244 SCRA 332).** In any case, a taxpayer should not be held to suffer loss by his good intention to comply with what he believes is his legal obligation, where such obligation does not really exist. **(Ramie Textiles, Inc. v. Mathay Sr., *supra*).** When money is paid to another under the influence of a mistake of fact, that is to say, on the mistaken supposition of the existence of a specific fact which would not have been known that the fact was otherwise, it may be recovered. The ground upon which the right of recovery rests is that money paid through misapprehension of facts belongs in equity and in good conscience to the person who paid it (4 Am. Jur. 514).

Since in the case at bar it was clearly established by Petitioner that the correct tax base for capital gains tax and documentary stamp tax for extra judicial sale of the mortgaged properties should only be P27,703,000.00 and not P71,596,196.24, Respondent is under obligation to return the excess/overpaid capital gains tax and documentary stamp tax to herein Petitioner pursuant to the aforecited Article 2154 of the New Civil Code.

Records show that Petitioner complied with the statutory requirements for the filing of the claim for refund. Thus, what is left for this Court to do is merely to ascertain whether Petitioner has satisfied the evidentiary requirements of its claim for refund.

After a thorough and detailed examination of Petitioner's evidence (Exhibits A to Y, inclusive of sub-markings) and considering that Respondent did not submit any evidence to controvert the evidence and allegations of Petitioner, the Court under the circumstances, is persuaded to extend the relief sought by Petitioner. Petitioner is entitled to the refund of the amount of P3,291,996.40, breakdown of which is shown in Exhibit B, representing its overpayment of capital gains tax and documentary stamp tax for the year 1998, as a matter of law.

IN THE LIGHT OF ALL THE FOREGOING, the instant Petition for Review is hereby **GRANTED.** Respondent is hereby **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of Petitioner in the amount of P3,291,996.40. No costs.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

I CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge