LAZARUS JOSEPH,
Petitioner,

- versus - C.T.A. CASE NO. 267

SILVERIO BLAQUERA, in his capacity as Collector of Internal Revenue,
Respondent.

x - - - - - - - - - - - - - - x

ALBERT JOSEPH,
Petitioner,

- versus - C.T.A. CASE NO. 314

SILVERIO BLAQUERA, in his capacity as Collector of Internal Revenue,
Respondent.

x - - - - - - - - - - - - - - x

April 15, 1958

GEORGE JOSEPH,
Petitioner,

- versus - C.T.A. CASE NO. 315

SILVERIO BLAQUERA, in his capacity as Collector of Internal Revenue,
Respondent.

x - - - - - - - - - - - - - - x

JOHN JOSEPH,
Petitioner,

- versus - C.T.A. CASE NO. 316

SILVERIO BLAQUERA, in his capacity as Collector of Internal Revenue,
Respondent.

x - - - - - - - - - - - - - - x

D E C I S I O N

The above-entitled cases were heard jointly before this Court. The facts and circumstances, as well as the issue involved therein, being similar and interrelated with each other, we shall determine the same jointly.

These are petitions for the review of the decisions of respondent Collector of Internal Revenue assessing against and demanding from each of the above petitioners, deficiency income taxes for the years and in the amounts indicated hereunder:

Name of Petitioner	Year	Amount
Lazarus Joseph	1945	₱12,067.50
Lazarus Joseph	1946	87,521.63
Albert Joseph	1946	32,814.32
George Joseph	1946	26,896.63
John Joseph	1946	31,932.32

Petitioner Lazarus Joseph filed his income tax returns for the years 1945 and 1946 on February 18, 1946 and April 1, 1947, respectively. Petitioners Albert Joseph and John Joseph filed their income tax returns for the year 1946 on April 1, 1947. Petitioner George Joseph who was then in the United States, did not file his income tax returns for the year 1946, which should have been filed on or before March 1, 1947. Hence, an examiner of the Bureau of Internal Revenue prepared and filed for him an income tax return for the said year. After an investigation of the respective income and deductions of each of the petitioner herein, and their corresponding income tax liabilities accordingly determined, respondent, on August 19, 1947, assessed against and demanded from them the payment of the above-mentioned income tax deficiencies. However, on September 10, 1947, petitioners requested for a reinvestigation of the assessments in question which requests were granted by the respondent.

On October 6 and 8, 1951, respondent demanded again from each of petitioners for the payment of the income tax assessments previously issued against them plus interest up to October 15, 1951. Simultaneously, respondent also issued warrants of distraint and levy against the properties of petitioners. However, by letters all dated October 16, 1951, petitioners Lazarus Joseph, Albert Joseph and John Joseph, requested for the suspension of the summary collection of the income tax assessed against them, alleging that their cases are still pending reinvestigation. Later, by letters all dated October 17, 1951, petitioners informed respondent of their ownership of certain shares of stock in the Joseph Bros., Inc., which they claim were sufficient to guarantee the payment of their disputed income tax liabilities.

Acting on the information furnished by petitioners in their letters of October 17, 1951, respondent on the same day, addressed warrants of garnishment to Joseph Bros., Inc., garnishing shares of stock in said corporation registered in the names of each of the petitioners. However, on February 6, 1953, petitioners asked for a reconsideration of the warrants of garnishment, and requested further for a reinvestigation of the entire matter. Again, respondent ordered the reinvestigation of the income tax liabilities of the petitioners.

Although, the warrants of garnishment on petitioners' shares of stock in the Joseph Bros., Inc., were served on October 18, 1951, no further action was taken thereon until August 22, 1955, when respondent asked for the transfer of the garnished certificates of stock to the name of the Bureau of Internal Revenue.

On December 28, 1955, petitioners wrote respondent that his right to collect, either by distraint and levy or by judicial action, the income tax assessments in question has already prescribed, and requested that the said assessments be withdrawn. On January 13, 1956, respondent denied the requests of petitioners and urge them to pay the tax assessed against each of them with the warning that if they fail to pay the said assessments, drastic action will be taken against them without any further notice. In view of this, petitioners, on March 3, 1956, delivered to respondent the certificates of stock under garnishment, which were endorsed in blank.

Upon receipt of the garnished certificates of stock of the Joseph Bros., Inc., respondent advertised the same for sale at public auction on May 7, 1956. However, for lack of bidders, the scheduled sale did not take place. Hence, respondent advertised again the same shares of stock for public auction sale on June 26, 1956. Again, no bidders appeared. And for the third time, respondent re-advertised the sale at public auction of the same shares of stock to take place on August 30, 1956. Inasmuch as there was no bidder at this third scheduled sale, respondent purchased the shares of stock for the government for "whatever book value the shares of stock may have."

The only question in this case is whether or not the sale of petitioners' shares of stock on August 30, 1956 is legal and valid?

We find that in the instant case, all the income tax returns of petitioners which are under review were filed on or before April 1, 1947. The warrants garnishing petitioners' shares of stock were served only on October 18, 1951, or more than three years after the income tax returns were filed or should have been filed. It is now well settled that in view of the provisions of Section 51 (d) of the Tax Code, the Collector of Internal Revenue has no power to collect by administrative methods any deficiency income tax assessments beyond the three year period from the time the returns have been filed or should have been filed. (Collector of Internal Revenue vs. Villegas, 56 Phil. 554; Collector of Internal Revenue vs. Haygood, 65 Phil. 520; Juan de la Viña vs. El Gobierno de las Filipinas, 65 Phil. 262; Collector of Internal Revenue vs. Jose Avelino et al., G. R. No. L-9202, Nov. 19, 1956; and Collector of Internal Revenue vs. Aurelio P. Reyes et al., G.R. No. L-8685, Jan. 31,1957; Collector of Internal Revenue vs. Jose C. Zulueta, 53 O.G. 6532;

Adriano Chua Joy vs. Collector of Internal Revenue, G.R. No. L-10961, Feb. 28, 1958.)

The acts of the revenue authorities in violation of said section 51 (d) would be illegal and, therefore, the warrant of garnishment involved herein as regard petitioners' shares of stock having been issued contrary to law, were without force and effect. It necessarily follows that respondent never legally acquired control over petitioners' shares of stock and the subsequent sale thereof on August 31, 1956 in favor of the government is likewise null and void.

It may be asked, however, as to whether this case could be treated as a judicial action to collect the tax and if so whether such judicial action has not yet prescribed. We note that all these cases were brought to this Court by the petitioners for review on appeal on May 5, 1956, and respondent filed his answers to the petitions for review on March 13, 1957. It is therefore clear that at the time of the institution of this case more than five (5) years had lapsed from August 19, 1947, the date the assessments were made. After an assessment has been made, the collection thereof may be enforced by judicial action. However, under Section 332 of the Tax Code, the judicial proceedings for the collection of the tax cannot be made beyond five (5) years after the assessment thereof. Consequently, the collection of the deficiency income tax assessments from petitioners is already barred by the statute of limitations and therefore pursuant to Section 14 of Republic Act No. 1125, there is no deficiency in respect to such tax.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the decision of respondent is hereby reversed. The sale of petitioners' shares of stock in Joseph Bros., Inc. to the government on August 30, 1956, is hereby declared null and void, and respondent is hereby ordered to return the said shares of stock to petitioners.

It is further declared that there is no deficiency income tax due and payable by petitioner Lazarus Joseph for the years 1945 and 1946 and petitioners Albert Joseph, George Joseph and John Joseph for the year 1946.

SO ORDERED.

Manila, Philippines, April 15, 1958.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge

CTA decision reversed by S.C. in
G.R. No. L-14034, Aug. 30, 1962