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In effect, the main decision introduces marriage to a citizen as a means of acquiring citizenship, a way not contemplated by Article IV of the Constitution.

I am not unaware of the fact that the decisions of this Court have made very difficult the acquisition of citizenship by alien woman marrying Filipinos. But the remedy lies in a change of the statute. And it is not amiss to observe here that since 1959, when the present doctrine on the matter was adopted, the Legislature has not expressed any dissent therefrom, when it could have easily altered or clarified the legal provisions affected if Congress were convinced that this Court had misinterpreted its intent.

[G.R. No. L-22480. October 4, 1971]

CARLOS MORAN SISON and PRISCILA F. SISON, *petitioners*, *vs.* COMMISSIONER OF INTERNAL REVENUE, *respondent.*

RESOLUTION

DIZON, *J.*:

Petitioners appealed from a resolution dated January 13, 1964 of the Court of Tax Appeals in its Case No. 337 (a) denying their petition for the rendition of a decision "on the merits" in said case, and instead, (b) granting herein respondent's motion for the execution of the judgment rendered by this Court in G.R. No. L-13739 entitled "The Commissioner of Internal Revenue *vs.* Carlos Moran Sison and Priscila F. Sison."

In our decision of June 30, 1971, We affirmed the aforesaid resolution of the Court of Tax Appeals, with costs.

Now before Us is petitioners' motion for the reconsideration of our decision, on the ground that the same is based on certain "misapprehension of facts." In the first place, they point to the

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statement made therein to the effect that they refrained from presenting evidence to prove the invalidity of the questioned deficiency tax, claiming that they did present both oral and documentary evidence on said matter; in the second place, they point to another statement made in the aforesaid decision to the effect that petitioners contended that "upon the remanding of the case below, the Court of Tax Appeals was bound to set the case anew for hearing," claiming that they had never advanced such contention; and lastly, petitioners' claim that when in our decision in G.R. L-13739 We said that "the Collector's actuation is herein sustained," We did not thereby sustain the disputed assessment.

It must be admitted that there was inaccuracy in the first two statements, it appearing from the record that during the hearing below held on August 20, 1957, petitioners presented the testimony of Atty. Teodoro Dominguez and several documents as evidence, among them being those mentioned in petitioners' reply brief and their motion for reconsideration now under consideration. It is a fact, however, that in the course of said hearing Atty. Dominguez, while arguing on the question of prescription, said the following: "We prefer not to submit evidence in the meantime while waiting for the resolution of this Honorable Court" — obviously on the question of prescription that he had raised. Thereupon, Judge Nable made the observation that the Court was "trying the whole case on the question of prescription and on the merits," to which Atty. Dominguez replied: "As I had already pointed out, your Honor, the Collector of Internal Revenue. . . .," but his statement was interrupted by an observation made by Judge Luciano to this effect: "It is up to you if you want to take that chance." (t.s.n., p. 9, August 20, 1957). The first "misapprehension of fact" must, therefore, be considered in the context of the foregoing.

The statement that petitioners had argued "that upon the remanding of the case below, the Court of Tax Appeals was bound to set the case anew for hearing" suffers likewise from inaccuracy. The statement should have been, instead, that it was petitioners' contention that upon the remanding of the case below

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the Court of Tax Appeals was called upon to render a decision "on the merits" in view of the fact that its decision, appealed to and later reversed by the Supreme Court, did not decide the question of the validity of the assessment but merely declared that the same had prescribed. As a matter of fact, upon the remanding of the case below, petitioners filed on November 21, 1963 a PETITION FOR DECISION ON THE MERITS. This petition was denied by the Court of Tax Appeals in its resolution of January 13, 1964, which furthermore granted the motion for execution of judgment filed by the respondent Collector of Internal Revenue. Whatever inaccuracy there is in our statement regarding this particular matter may be traced to the fact that the personal recommendation made by the writer of the decision to the Court during its deliberation on the case was precisely to have it remanded below to enable petitioners to present whatever other evidence they had on the alleged invalidity of the questioned deficiency tax assessment. The recommendation, however, was disapproved by all the other members of the Court in whose opinion judgment should be rendered affirming the resolution of the Court of Tax Appeals which denied petitioners' petition for the rendition of a decision on the merits and, furthermore, ordering the execution of the final judgment rendered in G.R. L-13739.

Considering the questions raised by petitioners in their brief as appellants, namely, that "The Tax Court erred in granting appellee's motion for execution of the decision rendered by this Honorable Supreme Court on April 30, 1963 in G.R. No. L-13739, and denying appellants' petition for decision on the merits of C.T.A. Case No. 337," it is obvious that the "misapprehension of facts" above-referred to do not constitute reversible errors, nor do they show that our decision is erroneous. In fact, they do not adversely affect the following portion of our decision which, in reality, is the main ground in support thereof:

"Section 14 of Rep. Act 1125 which speaks of the "Effect of decision that tax is barred by Statute of Limitations," provides that *if* the decision of the court is that the tax *is barred* said decision "shall be considered as its decision that there is no deficiency in respect of such tax." Such being the rule the contrary must likewise be true,

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namely: that if the decision of the court is that the tax *is not barred*, such decision must be understood in the sense that there is deficiency in respect of such tax. In line with this, when in G.R. L-13739 We overruled therein appellee's claim for damages, We did so "not only because they took no appeal from the decision presently under review, *but also because the collectors' actuation is herein sustained.*" (Italics supplied; Commissioner, etc. *vs.* Sison, 7 SCRA pp. 884, 886). The collectors' contention involved in that case was precisely that herein petitioners were liable for a deficiency tax in the amount of P5,535.02."

Petitioners contend, however, that the statement "the Collector's actuation is herein sustained" was only a "passing observation" in relation to their complaint that they had been harrassed and persecuted by the Commissioner of Internal Revenue with persistent and repeated re-investigations of their income tax liability; that, therefore, "The collector's action there sustained was *appellee's actuation of causing the re-investigation of appellants' income tax liability for 1949 by different teams of revenue examiners* during a period of more than four (4) years." Petitioners will thus limit the meaning and scope of our statement to the propriety or regularity of the repeated investigations complained of. This is an erroneous view. Our statement to the effect that "the Collector's actuation is herein sustained" necessarily implies approval not only of the repeated investigations he had made of petitioners' income tax liability, but also of the final result thereof, namely, his finding that petitioners were liable for the deficiency tax they were required to pay. Moreover, petitioners' defense of prescription referred to the deficiency tax amounting to P5,535.02 which the respondent Commissioner was trying to collect from them. When said defense was sustained by the Court of Tax Appeals, the claim barred was naturally the aforesaid deficiency tax; and when We reversed the decision of said Court, it is likewise crystal clear that what We held to be not yet prescribed was the same claim. The Court of Tax Appeals correctly understood our decision in G.R. L-13739 to have precisely this meaning, for which reason it refused to render another decision "on the merits"; and as our decision aforesaid had become final and executory, it ordered its execution.

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In view of the foregoing, discussion of the merits and probative value of the oral and documentary evidence mentioned in petitioners' reply brief and motion for reconsideration, is deemed unnecessary.

WHEREFORE, petitioners' motion for the reconsideration is hereby denied.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Teehankee, Barredo, Villamor, and *Makasiar, JJ.*, concur.

Fernando, J., took no part.

[G.R. No. L-23559. October 4, 1971]

AURELIO G. BRIONES, *plaintiff-appellee, vs.* PRIMITIVO P. CAMMAYO, et al., *defendants-appellants.*

SYLLABUS

1. **CIVIL LAW; USURY LAW; CONCEPT EXPLAINED.**— The Usury Law penalizes any person or corporation who, for any loan or renewal thereof or forbearance, shall collect or receive a higher rate or greater sum or value than is allowed by law, and provides further that, in such case, the debtor may recover the whole interest, commission, premiums, penalties and surcharges paid or delivered, with costs and attorney's fees, in an appropriate action against his creditor, within two (2) years after such payment or delivery (Section 6, Act 2655, as amended by Acts 3291 and 3998).

2. **ID.; ID.; IN USURIOUS LOANS, CREDITOR CAN COLLECT ACTUAL LOAN PLUS LEGAL INTEREST THEREON.**— Construing the above provision, We held in Go Chioco *vs.* Martinez, 45 Phil. 256 that even if the contract of loan is declared usurious the creditor is entitled to collect the money actually loaned and legal interest due thereon. In Gui Jong & Co. *vs.* Rivera, et al., 45 Phil. 778, this Court likewise declared that, in any event, the debtor in a usurious contract of loan should pay the creditor the amount which he justly owes him.