Supreme Court E-Library

FIRST DIVISION

[G.R. No. 96262. March 22, 1999]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **EMBROIDERY AND GARMENTS INDUSTRIES (PHIL.), INC.,** *respondent.*

SYNOPSIS

Respondent was assessed by the Bureau of Internal Revenue (BIR) deficiency income tax and advance sales tax based on an informant's report and the sworn statement of a former general manager of respondent that it sold all its dollar quotas to local Chinese textile traders at an overprice and faked its invoices to reduce the costs of importation. When a revised assessment was made by the BIR, respondent protested the same but it was nevertheless denied by the BIR Commissioner. Aggrieved, respondent elevated the issue to the Court of Tax Appeals by way of a petition for review. The tax court rendered a decision absolving respondent from liability. It held that the assessments must be based on actual facts and proved by competent evidence, and not simply imposed on the mere basis of unverified information supplied by an informant. Petitioner questioned the ruling of the Tax Court to the Court of Appeals by way of a petition for review. The appellate court affirmed the questioned ruling. His motion for reconsideration having been denied, this present recourse was resorted to by petitioner raising only issues of facts.

Findings of fact of the Court of Appeals and even of the tax court are final, binding and conclusive on the parties and upon this Court, which will not be reviewed or disturbed on appeal unless these findings are not supported by evidence, with certain well defined exceptions. This case does not come within any of the exceptions.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; APPEAL BY *CERTIORARI* FROM DECISIONS OF COURT OF

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APPEALS TO SUPREME COURT; QUESTION OF LAW, ONLY ISSUE INVOLVED.— It is a fundamental rule that an appeal *via certiorari* from a decision of the Court of Appeals to the Supreme Court may raise only questions of law, which must be distinctly set forth.

2. **ID.; EVIDENCE; CREDIBILITY; FINDINGS OF FACT OF COURT OF APPEALS AND COURT OF TAX APPEALS, GENERALLY BINDING AND CONCLUSIVE; CASE AT BAR, NOT AN EXCEPTION.**— Findings of fact of the Court of Appeals and even of the tax court are final, binding or conclusive on the parties and upon this Court, which will not be reviewed or disturbed on appeal unless these findings are not supported by evidence, with certain well recognized exceptions, such as (1) when the conclusion is grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial courts; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. This case does not come within any of the exceptions.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Willy Chuanico for private respondent.

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DECISION

PARDO, *J.*:

The case is an appeal *via certiorari* from a decision of the Court of Appeals[1] affirming that of the Court of Tax Appeals[2] absolving respondent from liability for deficiency income tax and advance sales tax in the amounts of ₱2,756,241.68, and ₱3,500,798.47, respectively, for the years 1959 to 1961.

The facts may be related as follows:

On September 22, 1964, on the basis of a sworn report of an informer, the Courts of First Instance of Manila and Bulacan issued search warrants for the seizure of certain documents from the offices of respondent Embroidery and Garments Industries (Phil.), Inc. in Manila and Valenzuela, Bulacan. Armed with the warrants, agents of the Anti-Technical Smuggling Unit, Bureau of Internal Revenue, seized various business records and documents from respondent's offices.

On January 4, 1966, petitioner assessed respondent the sum of ₱436,846.44, inclusive of 75% surcharge and penalty as advance sales tax for the years 1959 to 1961 and, on March 23, 1966, assessed deficiency income tax in the sum of ₱4,799,641.95, inclusive of 50% surcharge and ½% monthly interest for the years 1960 and 1961.

Respondent protested the assessments, and on December 9, 1970, petitioner issued to respondent a revised assessment requiring the latter to pay the amount of ₱2,756,241.68, inclusive of 50% surcharge and ½% monthly interest as deficiency income tax for the years 1959 to 1961. On December 22, 1970, petitioner required respondent to pay ₱3,500,798.47, as advance sales tax and 75% surcharge corresponding to the same years.

On January 7, 1971, respondent filed with the Bureau of Internal Revenue a protest disputing the revised assessments

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[1] CA-G.R. No. SP No. 20813, prom. on November 9, 1990.

[2] CTA Case No. 2334, prom. on January 15, 1990.

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and requesting further investigation. On the same date, petitioner denied the protest.

On January 20, 1971, respondent requested petitioner to reconsider the denial of its protest. On January 29, 1971, petitioner granted the request upon respondent's execution of a waiver of the statute of limitations.

On September 14, 1971, petitioner denied respondent's protest on the disputed assessments.

On October 14, 1971, respondent filed with the Court of Tax Appeals a petition for review of the disputed tax assessments.

On March 29, 1972, respondent filed its answer to the petition praying for its dismissal.

On January 15, 1990, the Court of Tax Appeals rendered decision finding respondent not liable for deficiency income tax and advance sales tax assessed against it, and accordingly, reversed the BIR decision. In its decision, the Court of Tax Appeals held that the assessments were of doubtful validity as they were based on incompetent evidence consisting of an informant's report and the sworn statement of a disgruntled former general manager of respondent that in the years in question respondent sold all its dollar quotas to local Chinese textile traders at an overprice or premium on the dollar value of textile importation of 80% for suiting materials and 70% for women's clothing materials and faked its invoices to reduce its costs of importation. On the other hand, respondent adduced evidence consisting of official records of the Bureau of Customs that its tax-free importations had been re-exported to their suppliers in accordance with the Embroidery Law and cleared by the Bureau of Customs. The tax court ruled that the assessments must be based on actual facts and proved by competent evidence, not imposed based on unverified information supplied by an informant, or disputed presumptions.

On June 13, 1990, petitioner filed with the Court of Appeals a petition for review of the decision of the Court of Tax Appeals.[3]

[3] Docketed as CA-G.R. SP No. 20813.

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On November 9, 1990, the Court of Appeals promulgated its decision affirming the appealed decision of the tax court.[4]

On December 4, 1990, petitioner filed a motion for reconsideration of the Court of Appeals' decision.

On February 7, 1991, the Court of Appeals denied the motion.[5]

On March 18, 1991, within the extended time granted, petitioner filed with the Supreme Court a petition for review on *certiorari* of the decision of the Court of Appeals.[6]

In the petition, the Commissioner of Internal Revenue submits that the Court of Appeals erred:

(1) in not holding that respondent is liable for deficiency income tax and advance sales tax in view of its failure to declare its income realized for the years 1959 to 1961 from the sales of its dollar quota to local Chinese textile dealers at a premium of 70% to 80% of the dollar value, which dollar quota rights were allocated by the Central Bank of the Philippines to enable respondent to import tax-free textile raw materials to be manufactured into finished products for re-export pursuant to the provisions of the Embroidery Law (R.A. No. 3137), and

(2) in not holding that the imposition of 50% surcharge for fraud was legal and justified.[7]

The issues raised are clearly factual and must be resolved on the basis of the evidence adduced before the tax court. The case tarried too long in the tax court. In the meantime, the star witness had died, and the needed originals of documentary evidence could no longer be located.

What is more, it is a fundamental rule that an appeal *via certiorari* from a decision of the Court of Appeals to the Supreme

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[4] Annex "B", Petition, *Rollo*, pp. 86-98.

[5] Annex "C", Petition, *Rollo*, pp 99-100.

[6] *Rollo*, pp. 28-55.

[7] Petitioner's Memorandum, *Rollo*, pp. 135-159, at 140.

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Court may raise only questions of law, which must be distinctly set forth.[8] Findings of fact of the Court of Appeals and even of the tax court are final, binding or conclusive on the parties[9] and upon this Court,[10] which will not be reviewed[11] or disturbed on appeal unless these findings are not supported by evidence,[12] with certain well recognized exceptions, such as (1) when the conclusion is grounded entirely on speculations,[13] surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial courts;[14] (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are

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[8] Rule 45, Section 1, 1997 Rules of Civil Procedure; *Pagobo vs. Court of Appeals*, 280 SCRA 870; *Policarpio vs. Court of Appeals*, 269 SCRA 344.

[9] *Fortune Motors (Phils.) Corporation vs. Court of Appeals*, 267 SCRA 653.

[10] *First Philippine International Bank vs. Court of Appeals*, 252 SCRA 259.

[11] *Atillo vs. Court of Appeals*, 266 SCRA 596; *Yobido vs. Court of Appeals*, 281 SCRA 1.

[12] *Guerrero vs. Court of Appeals*, 285 SCRA 670.

[13] *Philippine Deposit Insurance Corporation vs. Court of Appeals*, 283 SCRA 462.

[14] *Lustan vs. Court of Appeals*, 266 SCRA 663; *Yobido vs. Court of Appeals*, 281 SCRA 1.

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contradicted by the evidence on record.[15] This case does not come within any of the exceptions.

WHEREFORE, the Court hereby *AFFIRMS* the appealed decision of the Court of Appeals in CA-G.R. SP No. 20813.

No costs.

SO ORDERED.

Davide, Jr., C.J., Melo, and *Kapunan, JJ.,* concur.

FIRST DIVISION

[G.R. No. 116738. March 22, 1999]

PEOPLE OF THE PHILIPPINES, *petitioner, vs.* **RODRIGO DOMOGOY, ALLAN CUIZON and ELMER FRAGA,** *defendants.* **RODRIGO DOMOGOY,** *defendant-appellant.*

SYNOPSIS

Herein defendant-appellant was accused and found guilty of rape; however, we acquit him on the ground of reasonable doubt.

When conviction depends largely upon the victim's uncorroborated testimony, it should not be accepted unless her sincerity is free from suspicion. Here after the alleged rape, complainant sent appellant a letter and card, the tone and contents of which indicate a greater degree of familiarity than complainant

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[15] *Misa vs. Court of Appeals*, 212 SCRA 217; *Golangco vs. Court of Appeals*, 283 SCRA 493, 503; *Fule vs. Court of Appeals*, 286 SCRA 698, 710; *Halili vs. Court of Appeals*, 287 SCRA 465, 470; *Remalante vs. Tibe*, 158 SCRA 138; *Ayala Corporation vs. Ray Burton Development Corporation*, G.R. No. 126699, August 7, 1998.