



APPENDIX 3.5

FERDINAND R. MARCOS II v. COURT OF APPEALS, THE COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE AND HERMINIA D. DE GUZMAN

This resolution upheld, with finality, the legality of the “action of the Commissioner of Internal Revenue of levying on real property of the estate of Ferdinand E. Marcos to recover the deficiency income tax assessments and estate tax assessment thereon,” which Bongbong Marcos questioned partly in his capacity as one of his father’s heirs. Bongbong’s mistake, as per the resolution, was going directly to the Court of Appeals (filing a petition for certiorari) instead of exhausting the proper remedies provided by the law. As some of the other appendices show, this focus on technicalities in formulating defenses is a Marcos hallmark, and while it has not worked all the time, it prevents the Marcoses from making statements on the facts of cases. In this case, by not stating his take on how much estate tax should be levied on the Marcos estate, he avoided having to give a precise valuation of the estate. Bongbong also apparently did not make any direct protest regarding the Commissioner of Internal Revenue’s assessment specifically of his deficiency income tax, which was valued “in the amounts of P258.70 pesos; P9,386.40 Pesos; P4,388.30 Pesos; and P6,376.60” for the years 1982–1985, or when he was vice-governor/governor of Ilocos Norte (see G.R. 120880 [decision], promulgated on 5 June 1997). This is presumably the same cause of action for the criminal tax evasion case filed against Bongbong Marcos, which resulted in a nine-year sentence in July 1995 (Deseret News 1995). Marcos filed an appeal the same year (UPI 1995). It is difficult to determine what happened next based on publicly accessible sources; certainly, the sentence has not been carried out.

References

- Deseret News. 1995, 31 July. “Marcos Son Guilty of Tax Evasion.” <https://www.deseretnews.com/article/431031/MARCOS-SON-GUILTY-OF-TAX-EVASION.html?pg=all>.
- UPI (United Press International). 1995, 2 August. “Marcos Jr. Arrives to Appeal Conviction.” <https://www.upi.com/Archives/1995/08/02/Marcos-Jr-arrives-to-appeal-conviction/2702398003006>.

Republic of the Philippines
SUPREME COURT
 Manila

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[G.R. No. 120880. January 13, 1999]

FERDINAND R. MARCOS II vs. CA, et al.

THIRD DIVISION

Gentlemen:

*Quoted hereunder, for your information, is a resolution of this Court dated **JAN 13, 1999**.*

G.R. No 120880 (*Ferdinand R. Marcos II vs. Court of Appeals, The Commissioner of the Bureau of Internal Revenue and Herminia D. de Guzman.*)

The present case involves the action of the Commissioner of Internal Revenue of levying on real property of the estate of Ferdinand E. Marcos to recover the deficiency income tax assessments and estate tax assessment thereon. Instead of exercising the remedies afforded him by the tax code, petitioner Ferdinand R. Marcos II, as an heir of the late president, filed a petition for *certiorari* and prohibition with application for preliminary injunction and/or temporary restraining order with the Court of Appeals to enjoin the collection of the tax assessments.

The Court of Appeals in a decision¹ [Penned by Court of Appeals Associate Justice Asaali S. Isnani and concurred in by Associate Justice Ibay-Somera and Lipana-Reyes, *rollo*, pp. 7-13.] promulgated on November 29, 1994 dismissed the petition on the ground that the deficiency income tax assessments and estate tax assessments were final and unappealable. The summary tax remedy of levy of real property as a distinct and separate remedy from the other tax remedies (judicial civil and criminal actions), was not affected or precluded by the pendency of any other tax remedies instituted by the government. The prayer for injunction was not granted since Section 219 of the Tax Code expressly prohibits courts from enjoining or restraining the collection of any national internal revenue tax, fee, or charge imposed by the Code, subject, however, to certain exceptions, of which petitioner failed to prove were applicable.

On August 8, 1995, petitioner filed a petition for review on *certiorari*² [*Rollo*, pp. 21-74.] before this Court assailing the appellate court's decision. Petitioner alleged that the appellate court erred in ruling that the summary tax remedies resorted to by the government were not affected and precluded by the pendency of the probate proceedings of his late father's estate; that since the tax assessments of petitioner and his parents had become final and unappealable, the manner and method in which tax collection is sought to be enforced can no longer be questioned; and that the appellate court had no power to grant injunctive relief to petitioner.³ [*Ibid*, pp. 35-36.]

On June 5, 1997, the Court denied the petition and affirmed in all respects the decision of the Court of Appeals promulgated on November 29, 1994. The Court of Appeals promulgated on November 29, 1994. The court emphasized that petitioner's objections cannot be raised via a petition for *certiorari* under the pretext of a grave abuse of discretion. Any objection to the assessments should have been raised with the Bureau of Internal Revenue and the Court of Tax Appeals as provided under the Tax Code. The subject tax assessments having become final, executory and enforceable, the same can no longer be

Figure 1. A screenshot from the Supreme Court of the Philippines website.

Source: Supreme Court of the Philippines. 1999. "Ferdinand R. Marcos II vs. Court of Appeals, The Commissioner of the Bureau of Internal Revenue and Herminia D. de Guzman, G.R. No. 120880, 13 January 1999." Republic of the Philippines.

<http://www.chanrobles.com/scresolutions/resolutions/1999/january/120880.php>.

G.R. No. 120880. January 13, 1999

Third Division

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provided under the Tax Code. The subject tax assessments having become final, executory and enforceable, the same can no longer be contested by means of a protest. Certiorari may not be used as a substitute for a lost appeal or remedy.⁴ [Dela Paz vs. Panis, 245 SCRA 242.]

On June 23, 1997, petitioner filed a motion for reconsideration; meantime, on June 17, 1997, Imelda R. Marcos, mother of the petitioner, filed a motion for leave to intervene and to refer the motion for reconsideration to the court en banc. The Court denied the motions in a Resolution adopted on September 29, 1997, for lack of merit.

On November 24, 1997, petitioner filed a second motion for reconsideration of the June 5, 1997 decision. On December 11, 1997, Imelda R. Marcos followed suit when she filed a similar motion.⁵ [Rollo, pp. 1063-1065.]

It is evident from the averments of the second motion for reconsideration, and the lengthy memorandum of authorities in support thereof that petitioner raises no new issue sufficient to warrant a reversal or modification of the ruling in the Court's decision promulgated on June 5, 1997.

Moreover, no other person than petitioner is to blame for the expiration of the period within which to question the assessments.

We do not see any cogent or compelling reason to allow the same issues to be opened anew in the instant petition. As a settled rule, once a judgment or an order has become final, issues therein should be laid to rest. The reason is grounded on the fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments or orders of courts must become final at some definite date fixed by law.⁶ [Garbo vs. Court of Appeals, 226 SCRA 250, pp.255-256.]

IN VIEW OF THE FOREGOING, the Court hereby denies the second motion for reconsideration of Ferdinand R. Marcos II and Imelda R. Marcos for lack of merit. This denial is final.

SO ORDERED.

Very truly yours,

(Sgd.) JULIETA Y. CARREON
Clerk of Court