

**COMMISSIONER OF INTERNAL REVENUE, et al. v. PRIMETOWN
PROPERTY GROUP, INC.
G.R. No. 162155, 28 August 2007, Corona, J. (First Division)**

There obviously exists a manifest incompatibility in the manner of computing legal periods under the Civil Code and the Administrative Code of 1987. For this reason, we hold that Section 31, Chapter VIII, Book I of the Administrative Code of 1987, being the more recent law, governs the computation of legal periods. Lex posteriori derogat priori.

Gilbert Yap, vice chair of Primetown Property Group, Inc. (Primetown), applied on March 11, 1999 for the refund or credit of income tax Primetown paid in 1997. It contends that it is entitled to it because it suffered losses that year due to the increase in the cost of labor and materials, the difficulty in obtaining financing for projects, and collecting receivables. Notwithstanding this, Primetown still paid its quarterly corporate income tax and remitted creditable withholding tax from real estate sales to the BIR. Thus, it claims entitlement to a refund.

On May 13, 1999, revenue officer Elizabeth Y. Santos required Primetown to submit additional documents to which the latter complied with. However, its claim was not acted upon which prompted it to file a petition for review in the Court of Tax Appeals (CTA) on April 14, 2000.

CTA dismissed the petition as it was filed beyond the two-year prescriptive period for filing a judicial claim for tax refund or tax credit in accordance with Section 229 of the National Internal Revenue Code (NIRC). According to the CTA, the two-year prescriptive period is equivalent to 730 days pursuant to Article 13 of the Civil Code wherein “years are of three hundred sixty-five days each”. Since Primetown filed its final adjusted return on April 14, 1998 and that the year 2000 was a leap year, the petition was filed 731 days after Primetown filed its final adjusted return, therefore beyond the reglementary period.

On appeal, the Court of Appeals reversed the decision of CTA. It ruled in favor of Primetown saying that Article 13 of the Civil Code did not distinguish between a regular year and a leap year and thus it was filed on time.

The Commissioner of Internal Revenue and Arturo Parcero appealed before the Supreme Court stating that tax refunds, being in the nature of an exemption, should be strictly construed against claimants. Hence, the claim should have been filed on or before April 13, 2000 or within 730 days, reckoned from the time it filed its final adjusted return.

ISSUE:

Whether or not the petition was filed within the two-year period from the date of payment

HELD:

Petition DENIED.

Article 13 of the Civil Code provides that when the law speaks of a year, it is understood to be equivalent to 365 days. However, EO 292 or the Administrative Code of 1987, a subsequent law, was enacted. It provides in Section 31 that a year shall be understood to be “twelve calendar months”. The Supreme Court defines a calendar month as “a month designated in the calendar without regard to the number of days it may contain”.

Due to the inconsistency, the Court held that the Administrative Code of 1987 impliedly repealed Article 13 of the Civil Code as the provisions are irreconcilable. The Court explained that a law may be repealed expressly or impliedly. Although there is a repealing clause in the law, it cannot be said as express because there is no specific designation of the law to be repealed. Thus, it is simply an implied repeal which are generally not favored. The test now is whether the subsequent law encompasses entirely the subject matter of the former law and they cannot be logically or reasonably reconciled. But as it was found out, both laws encompass the same subject matter, i.e., the computation of legal periods which makes an implied repeal possible.

Therefore, applying Section 31, Chapter VIII, Book I of the Administrative Code of 1987, Primetown's petition which was filed on April 14, 2000, was filed on the last day of the 24th calendar month from the day Primetown filed its final adjusted return. Hence, it was filed within the reglementary period.