

G. R. No. L-6779

[ G. R. No. L-6779. August 31, 1954 ]

**TESTATE ESTATE OF TERESA TUASON Y DE LA PAZ, CONSUELO L. VDA. DE PRIETO, ADMINISTRATIX-APPELLANT, VS. MARIA ROSARIO VALDEZ, ET AL., MOVANTS-APPELLEES, ANTONIO PRIETO, ET AL., HEIRS-APPELLEES.**

## **D E C I S I O N**

### **CONCEPCION, J.:**

This is an appeal taken by Consuelo L. Vda. De Prieto—hereinafter referred to as the appellant—as administratix of the testate estate of Teresa Tuason y de la Paz, from a “resolution” of the Court of First Instance of Manila, dated February 10, 1953, disapproving an item for P104,178.44, in her statement of accounts dated December 22, 1952, representing a payment made to the City Treasurer of Manila as “balance of estate tax due on the testate estate” aforementioned.

It appears that on February 14, 1952 said court approved the corresponding project of partition of said estate, which provided, inter alia, that the estate tax due the Government would be paid directly by said administratix. The decedent had 14 heirs, who belong to three families, namely, the Legardas (Rosario, Alejandro, Beatriz, Teresa and Jose), the Valdezes (Maria Rosario, Teresa, Maria Rita, Jose, Carmen and Rafael), and the Prietos ( Antonio, Mauro and Benito). The latter are children of appellant herein. On May 22, 1952 the Valdezes and the Legardas, hereinafter referred to as the appellees, filed a motion praying that their respective shares in the estate, as set forth in said project of partition, be delivered to them. To answer for the payment of the inheritance tax due from them, appellees filed, also, a bond in the sum of P710,173.20. Said motion was objected to by the appellant, upon the ground, among others, that there is still due to the government

by way of "estate tax" the sum of P351,349, of which "corresponden 11/14 partes a los herederos VALDEZ Y LEGARDA, o sea, la cantidad de P276.059.93." The Collector of Internal Revenue in turn filed a "manifestation" stating that

"there is still due and collectible on transmission of the decedent's estate infavor of the Legarda and Valdes heirs the balance of the estate and inheritance taxes in the total sum of P986,223.13, computed as follows:

Balance of the estate tax...	P276,059.93
Balance of the inheritance tax...	<u>710,173.20</u>
TOTAL	P986,233.13"

and declaring, in effect, that he would not object to the motion above referred to if a bond for the aggregate sum due, as already adverted, were filed. In conformity therewith, the appellees had, meanwhile, filed an additional bond for P276,059.93, as their share of the estate tax. By an order dated June 30, 1952, the court approved the said bonds for P710,173.20 and P276,059.93 and directed the appellant to deliver to the appellees their respective shares in the estate of the deceased and to execute on their favor the corresponding deeds of conveyance.

On the motion of the appellant, the court, by an order dated August 6, 1952, required the appellees to file a third bond in the sum of P100,00, to answer for the expenses of administration. In compliance with this order, the appellees filed said bond, which was approved by the court on August 13, 1952. Soon after, or on September 6, 1952, the court approved the bonds filed by the Prietos, with the conformity of their mother, appellant herein, to answer for the payment of their respective shares of the estate and the inheritance taxes, and ordered the delivery to them of their respective shares in the estate of the decendant. On September 16, 1952, the appellees moved for the cancellation of their bond for P276,059.93, upon the ground that their share of the estate tax, payment of which was granted their by, had been

satisfied already. This allegation was borne dated October 1, 1952, reading as follows:

“With reference to your letter of the 27 the ultimo, wherein you requested the cancellation of the Philippine Guarantee Co., Inc. Bond No. 27466 in the sum of P276,059.93, which was filed in the case entitled ‘Testate Estate of the Late Teresa Tuason y De la Paz’, Sp. Proc. No. 13447 of the Court of First Instance of Manila, to guarantee the payment of the Court of First Instance of Manila, to guarantee the payment of the estate taxes due from the Valdes and Legarda heirs, I have the honor to inform you that, it appearing from the Estate Tax Receipts received by this Office that the estate taxes due and assessed against the Valdeses and Legardas were already paid, this Office will interpose no objection to the motion filed by you in court of cancellation of the said bond, the hearing of which is set by the court on October 2, 1952.

“A copy of this letter is being furnished to the Court of First Instance of Manila for its information.” (Manila CFI Records, Vol. I, p. 615)

According, by an order dated October 24, 1952, said bond for P275,059.93 was cancelled. Meanwhile, or on October 9, 1952, appellant had paid the City Treasurer of Manila the sum of P104,178.44, as balance of the estate tax due from the decedent. When this sum was included on the statement of accounts by her, on or about December 20, 1952, the appellees objected to its approval, alleging that the said item represented the share of appellant’s children, the Prietos, in the estate tax; that when appellant paid said sum of P104,178.44, she knew that the appellees had already settled their liability for the estate tax; and that, accordingly, she should be required to reimburse the aforementioned sum of P104,178.44. By an order dated February 10, 1953, the lower court sustained this objection, and approved appellant’s accounts, with the exception of said item for P104,178.44. Hence, the present appeal.

Appellant maintains that the lower court erred in disapproving said item of P104,178.44, inasmuch as the project of partition, approved on February 14, 1952, specifically provided that the estate tax would be paid by her and, pursuant to Section 95 of the National Internal Revenue Code, "the estate tax \* \* \* shall be paid by the executor or administrator." The issue before us, but *who* shall bear the *burden* of its payment. The law is silent thereon, and this is easily understandable when we considered that the government is mainly interested in insuring the collection of the tax. For this reason, it directs that the same be paid by the executor or administrator "*before* delivery to any beneficiary of his distributive share of the estate." Upon the other hand, in instituting the appellees and the Prietos as her heirs, the decedent ordained, in the seventh paragraph of her last will and testament, that "en lo que respecta as 'estate and inheritance tax' *cada uno pagara de lo que reciba\* \* \**" (Italics supplied). This clause, pursuant to which each heir shall pay, from his own share, the corresponding estate and inheritance taxes, was incorporated by reference in the project of partition, which explicitly declared that "\*\*\* *en lo que respecta al estate and inherance tax cada uno pagara de lo ue reciba, de acuerdo con el parrafo SEPTIMO del Testamento Exhibito 'A'.*" (Italics ours)

Consequently, the provision of the project of partition, directing the administratrix to pay the estate tax, should be understood to mean that payment thereof shall be *for the account of the heirs*, in proportion to their respective shares, not share and share alike, as contended by appellant herein. This conclusion becomes inescapable when we bear in mind that when that when the appellees later moved for the delivery of their respective shares in the estate, the Collector of Internal Revenue in effect express no objection thereto, provided that sufficient bonds be given to the answer for the payment of the estate tax due from said appellees, and that, in the bonds subsequently filed by the latter, they assumed *as principals* the obligation to settle the corresponding estate tax. When the Court approved said bonds and granted the aforesaid motion of the appellees, it was understood, therefore, that the *heirs* would satisfy their respective shares

of the estate tax.

It appearing from the records that the appellees have already paid the estate tax corresponding to their respective shares, it is obvious that when appellant received the communication of the Collector of Internal Revenue demanding payment of the sum of P104,178.44 as balance of the estate tax, she knew that this sum represented the share of her children, the Prietos, from whom, therefore, she should have demanded its satisfaction. Accordingly, when she paid the same, without making such demand, she assumed the corresponding risk, subject to her right to seek reimbursement from said heirs, the Prietos. WHEREFORE, without prejudice to said right of action of appellant herein, the resolution appealed from is hereby affirmed, with costs against the appellant.

*aras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes A., Jugo, Bautista Angelo, Labrador and Reyes JJ., concur.*

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