99 Phil. 934

[G.R. No. L-9141. September 25, 1956]

TESTATE ESTATE OF QLIMPIO FERNANDEZ, DECEASED. REPUBLIC OF THE PHILIPPINES, CLAIMANT AND APPELLEE, VS. ANGELINA OASAN VDA DE FERNANDEZ, PRISCILLA O. FERNANDEZ, AND ESTELA O. FERNANDEZ, OPPOSITORS AND APPELLANTS.

D E C I S I O N

LABRADOR, J.:

Appeal from a decision of the Court of Tax Appeals sustaining the validity of a tax amounting to P7,614.60 against the estate of Olimpio Fernandez under the War Profits Tax Law (Republic Act No. 55).

Olimpio Fernandez and his wife Angelina Oasan had a net worth of P8,600 on December 8, 1941. During the Japanese occupation the spouses acquired several real properties, and at the time of his death on February 11, 1945 he had a net worth of P31,489. The Collector of Internal Revenue assessed a war profits tax on the estate of the deceased at P7,614.60, which his administratirx refused to pay. The case was brought to the Court of Tax Appeals which sustained the validity and legality of the assessment. The administratrix has appealed this decision to, this Court.

The most important questions raised by the appellant are: (*a*) the unconstitutionally of the war profits tax law for the reason that it is retroactive; (*b*) the inapplicability of said law to the estate of the deceased Olimpio Fernandez, because the law taxes individuals; and (*c*) the separate taxation of the estate of the deceased Olimpio Fernandez from that of his wife's, because Olimpio Fernandez died before the law was passed.

Appellant's contention that the law is invalid or unconstitutional because it acts retroactively, thus violating the due process of law clause, is not supported by reason or authority. The tax, insofar as applicable to the estate of the deceased Olimpio Fernandez, is both a property tax and a tax on income. It is a property tax in relation to the

properties that Fernandez had in December, 1941; and it is an income tax in relation to the properties which he purchased during the Japanese occupation. In both cases, however, the war profits tax may not be considered as unconstitutional.

The doctrine of unconstitutionally raised by appellant is based on the prohibition against *ex post facto* laws. But this prohibition applies only to criminal or penal matters, and not to laws which concern civil matters or proceedings generally, or which affect or regulate civil or private rights (Ex parte Garland, 18 Law Ed., 366; 16 C. J. S., 889-891).

> "At an early day it was settled by authoritative decisions, in opposition to what might seem the more natural and obvious meaning of the term ex post facto, that in their scope and purpose these provisions were confined, to laws respecting criminal punishments, and had no relation whatever to retrospective legislation of any other description. And it has, therefore, been repeatedly held, that retrospective laws, when not of a criminal nature, do not come in conflict with the national Constitution, unless obnoxious to its provisions on other grounds than their respective character." (1 Cooley, Constitutional Limitations, 544-545.)

We have applied the above principle in the cases of Mekin *vs.* Wolf, 2 Phil. 74 and Ongsiako *vs.* Gamboa, 47 Off. Gaz,, No. 11, 5613, 5616.

It has also been held that property taxes and benefit assessments on real estate, retroactively applied, are not open to the objection that they infringe upon the due process of law clause of the Constitution (Wagner *vs.* Baltimore, 239 U. S. 207, 60 L. Ed. 230); that taxes on income are not subject to the constitutional objection because of their retroactivity. The universal practice has been to increase taxes on incomes already earned; yet notwithstanding this retroactive operation, income taxes have not been successfully assailed as invalid. The uniform ruling of the courts in the United States has been to reject the contention that the retroactive application of revenue acts is a denial of the due process guaranteed by the Fifth Amendment (Welch *vs.* Henry, 305 U. S, 134, 83 L. Ed. 87).

It has also been held that in order to declare a tax as transgressing the constitutional limitation, it must be so harsh and oppressive in its retroactive application (Idem.) But we hold that far from being unjust or harsh and oppressive our war profits tax is both wise and

just The last Pacific war and the Japanese occupation of the Islands have wrought divergent effects upon the different sectors of the population The quiet and the timid, who were afraid to go out of their homes or who refused to have any dealings with the enemy, stopped from exercising their callings or professions, losing their incomes; and. they supported themselves with properties they already owned, selling these from time to time to raise funds with which to purchase their daily needs. These were reduced to penury and want But the bold and the daring, as well as those who were callous to the criticism of being collaborators, engaged in trading in all forms or sorts of commodities, from foodstuffs to war materials, earning fabulous incomes and acquiring properties with their earnings. Those who were able to retain their properties found themselves possessed of increased wealth because inflation set in, the currency dropped in value and properties soared in prices. It would have been unrealistic for the legislature to have ignored all these facts and circumstances. After the war it could not, with justice to all concerned, apportion the expenses of government equally on all the people irrespective of the vicissitudes of war, equally on those who had their properties decimated as on those who had become fabulously rich after the war. Those who were fortunate to increase their wealth during the troubulous period of the war were made to contribute a portion of their newly-acquired wealth for the maintenance of the government and defray its expenses. Those who in turn were reduced to penury or whose incomes suffered reductions could not be compelled to share in the expenses to the same extent as those who grew rich. This in effect is what the legislature did when it enacted the War Profits Tax Law, The law may not be considered harsh and oppressive because the force of its impact fell on those who had amassed wealth or increased their wealth during the war, but did not touch the less fortunate, The policy followed is the same as that which underlies the Income Tax Law, imposing the burden upon those who have and relieving those who have not. No one can dare challenge the law as harsh and oppressive. We declare it to be just and sound and overrule the objection thereto on the ground of unconstitutionality.

The contention that the deceased Olimpio Fernandez or his estate should not be responsible because he died in 1945 and was no longer living when the law was enacted at a later date, in 1946, is absolutely without merit Fernandez died immediately before the liberation and the actual cessation of hostilities. He profited by the war; there is no reason why the incident of his death should relieve his estate from the tax. On this matter we agree with the Court of Tax Appeals that the provisions of section 18 of the Internal Revenue Code have been incorporated in Republic Act No. 55 by virtue of Section 9 thereof, which provides:

> Sec. 9. *Administrative remedies*.—All administrative, special and general provisions of law, including the laws in relation to the assessment, remission, collection and refund of national internal revenue taxes, not inconsistent with the provisions of the Act, are hereby extended and made applicable to all the provisions of this law, and to the tax herein imposed."

Under section 84 of the National Internal Revenue Code, the term "person" means an individual, a trust, estate, corporation, or a duly registered general co-parnership. If the individual is already dead, property or estate left by him should be subject to the tax in the same manner as if he were alive.

The last contention is also without merit. The property which Olimpio Fernandez was possessed of in December 1941 is presumed to be conjugal property and so are the properties which were acquired by him during the war, because at that time he was married. There is no claim or evidence to support the claim that any of the properties were paraphernal properties of the. wife; so the presumption stands that they were conjugal properties of the husband and wife. Under these circumstances they cannot be considered as properties belonging to two individuals, each of which shall be subject to the tax independently of the other.

For the foregoing considerations, the judgment appealed from is hereby affirmed, with costs against the appellants.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and *Felix, JJ.,* concur.

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