G.R. Nos. L-8499, 8514 & 8515

[G.R. Nos. L-8499, 8514 & 8515. May 21, 1958]

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. MARGARITA SORIANO DE S. DE VICUÑA, ET AL., RESPONDENTS.

D E C I S I O N

REYES, J.B.L., J.:
All these three cases present one and the same issue for our decision: should the donor's gift taxes be deducted from the value of the donation for the purpose of computing the gift taxes payable by the donee or donees under sec. 110 of the Internal Revenue Code?

The facts are not disputed. Each of the respondents has made a donation of shares of stock to their respective children. In each case donor's gift taxes were paid: in G.R. No. L-8499 (Margarita S. de Vicuña, donor) P55,990.00; in G.R No. L-8514 (Andres Soriano, donor) P10,802.50; in G.R No. L-8515 (Carmen S. Vda. de Angoso, donor) P74, 290.00.

Contending that these amounts should first be deducted from the total net value of the gifts before imposing the donee's gift taxes on the individual share of each donee, and that the Collector of Internal Revenue had illegally refused to do so, the respondents herein filed petitions in the now defunct board of Tax Appeals for an order of refund of the alleged excess amounts assessed and paid, to wit: P3,919.30, P119.44 and P6,693.20 respectively. In due course, the Court of Tax Appeals, by a consolidated decision in all three cases, dated October 20, 1954, found for the taxpayers, on the theory that inheritance and gift taxes should be governed by the same rules; and consequently ordered the Collector to make refund. He appealed to this Court.

The issue and arguments on both sides have already been passed upon by this Court in Kiene vs. Collector of Internal Revenue, G.R. Nos. L-5794 and L-5997, promulgated on July 30, 1955, wherein we ruled:

" In his second assignment of error, the respondent says the Board erred in holding that the donee's gift taxes payable by the three children should be computed on the balance of the donation after deducting the donor's gift tax in the amount of P72,016.72. He points out that whereas by express direction of the Revenue Code the "estate tax" is deductible from the "net estate" before computing the inheritance tax, no such deduction of the donor's tax is directed by atatue when the donee's gift tax is assessed.

The reason for the different treatment, as we see it, is that the estate tax must necessarily be pais from the estate, thereby reducing it; whereas the donor's tax is, or maybe paid by, or collected from, the donor, who must be presumed to have reserved unto himself or herself sufficient property – as suggested by the respondent's counsel. (See Art. 750 New Civil Code; Art. 643 Civil Code.) Hence, the gift received by the donee is not necessarily diminished by the payment of the donor'd tax.

The donor's gift tax is levied on the act of giving and the donee's gift tax on the act of receiving – both taxes being assessable on the aggregate sum of the gifts. And there is no legislative indication that the donee shall pay less than the donor – by deducting the tax assessed on the latter. It may not be said that the donor's tax necessarily reduces the gift received by the donee; and there is nothing in the law requiring the donor's tax to be discounted from the donation.

If in fact the donor's tax was paid by the donees out of the money or property dobated, perhaps there would be some ground to claim deduction thereof in the computation of the donees' tax[1]. Such is not teh fact, however, in this instance, because it appears that the donor's tax has already been paid (p.6 petitioner's brief) – obviously by the donor Maria Elizabeth Kiene, or for her account, otherwise she would have no standing before the court. In other words, as the donor paid the tax, the amount donated was not reduce.

Consequently there is merit to this feature of respondent's appeal.

We only need to add that the respondents point out no stipulation or evidence showing that the donees in each case agreed to pay the donor's taxes out of their own pockets. In the absence of such evidence or stipulation, as pointed out i the Kiene decision, since the law requires a donor to reserved enough properties to pay his obligations (Art. 759, New Civil

Code, 643, old), payment of the donor's gift tax by the donee would be an act done for and on behalf of the donor, hence, the donee may not claim that the payment has reduced his beneficial interest in the property donated.

That the Internal Revenue Code makes the gift taxes a lien on the donated property aims merely at. securing their payment, and does not at all imply that the donor's tax is legally chargeable to the donee.

In justice to the Court of Tax Appeals, it should be made of record that its judgment was rendered almost ten months prior to our ruling in the Kiene case.

The decision appealed from is reversed, and the order of refund set aside. Costs against appellees.

So ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and *Endencia, JJ.,* concur.

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[1] "Perhaps" is used advisedly. The argument is: because the gift has thereby been reduce, the donee's tax should be reduce correspondingly. Yet this answer might be presented: In paying the donor's tax, the donee acts for donor, he may recover from donor, therefore no reduction. Another answer: if the donor's tax is to be deducted because it reduces the gift, then by the same token the donee's tax should also be deducted – which preposterous. The point is not free from doubt."

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