

## THE COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ANTONIO CAMPOS RUEDA, RESPONDENT.

*G.R. No. L-13250. October 29, 1971*

Ponente: FERNANDO, J.

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### FERNANDO, J.:

The basic issue posed by petitioner Collector of Internal Revenue in this appeal from a decision of the Court of Tax Appeals as to whether or not the requisites of statehood, or at least much thereof as may be necessary for the acquisition of an inter-national personality, must be satisfied for a "foreign country" to fall within the exemption of Section 122 of the National Internal Revenue Code[1] is now ripe for adjudication. The Court of Tax Appeals answered the question in the negative, and thus reversed the action taken by petitioner Collector, who would hold respondent Antonio Campos Rueda, as administrator of the estate of the late Estrella Soriano Vda. de Cerdeira, liable for the sum of P161,874.95 as deficiency estate and inheritance taxes for the transfer of intangible personal properties in the Philippines, the deceased, a Spanish national having been a resident of Tangier, Morocco from 1931 up to the time of her death in 1955. In an earlier resolution promulgated May 30, 1962, this Court on the assumption that the need for resolving the principal question would be obviated, referred the matter back to the Court of Tax Appeals to determine whether the alleged law of Tangier did grant the reciprocal tax exemption required by the aforesaid Section 122. Then came an order from the Court of Tax Appeals submitting copies of legislation of Tangier that would manifest that the element of reciprocity was not lack-ing. It was not until July 29, 1969 that the case was deemed submitted for decision. When the petition for review was filed on January 2, 1958, the basic issue raised was impressed with an element of novelty. Four days thereafter, however, on January 6, 1958, it was held by this Court that the aforesaid provision does not require that the "foreign country" possess an international personality to come within its terms.[2] Accordingly, we have to affirm.

The decision of the Court of Tax Appeals, now under review, sets forth the background facts as follows: "This is an appeal interposed by petitioner Antonio Campos Rueda, as administrator of the estate of the deceased Doña Maria de la Estrella Soriano Vda. de Cerdeira, from the decision of the respondent Collector of Internal Revenue, assessing against and demanding from the former the sum of P161,874.95 as deficiency estate and inheritance taxes, including interests and penalties, on the transfer of in-tangible personal properties situated in the Philippines and belong-ing to said Maria de la Estrella Soriano Vda. de Cerdeira, Maria de la Estrella Soriano Vda. de Cerdeira (Maria Cerdeira for short) is a Spanish national by reason of her marriage to a Spanish citizen and was a resident of Tangier, Morocco from 1931 up to her death on January 2, 1955. At the time of her demise she left, among others, intangible personal properties in the Philippines." [3] Then came this portion: "On September 29, 1955, petitioner filed a provisional estate and inheritance tax return on all the properties of the late Maria Cerdeira. On the same date, respondent, pending investigation, issued an assessment for estate and inheritance taxes in the respective amounts of P111,592.48 and P157,791.48, or a total of P269,383.96, which tax liabilities were paid by petitioner. On November 17, 1955, an amended return was filed \* \* \* wherein intangible personal properties with the value of P396,308.90 were claimed as exempted from taxes. On November 23, 1955, respondent, pending investigation, issued another assessment for estate and inheritance taxes in the amounts of

P202,262.40 and P267,402.84, respectively, or a total of P469,665.24 \* \* \*. In a letter dated January 11, 1956, respondent denied the request for exemption on the ground that the law of Tangier is not reciprocal to Section 122 of the National Internal Revenue Code. Hence, respondent demanded the payment of the sums of P239,439.49 representing deficiency estate and inheritance taxes including ad valorem penalties, surcharges, interests and compromise penalties \* \* \*. In a letter, dated February 8, 1956, and received by respondent on the following day, petitioner request ed for the reconsideration of the decision denying the claim for tax exemption of the intangible personal properties and the imposition of the 25% and 5% ad valorem penalties \* \* \*. However, respondent denied this request, in his letter dated May 5, 1956 \* \* \* and received by petitioner on May 21, 1956. Respondent premised the denial on the grounds that there was no reciprocity [with Tangier, which was moreover] a mere principality, not a foreign country. Consequently, respondent demanded the payment of the sums of P73,851.21 and P88,023.74 respectively, or a total of P161,874.95 as deficiency estate and inheritance taxes including surcharges, interests and compromise penalties."[4]

The matter was then elevated to the Court of Tax Appeals. As there was no dispute between the parties regarding the values of the properties and the mathematical correctness of the deficiency assessments, the principal question as noted dealt with the recipro-city aspect as well as the insistence by the Collector of Internal Revenue that Tangier was not a foreign country within the meaning of Section 122. In ruling against the contention of the Collector of Internal Revenue, the appealed decision states: "In fine, we believe, and so hold, that the expression 'foreign country', used in the last proviso of Section 122 of the National Internal Revenue Code, refers to a government of that foreign power which, although not an international person in the sense of international law, does not impose transfer or death taxes upon intangible personal properties of our citizens not residing therein, or whose law allows a similar exemption from such taxes. It is, therefore, not necessary that Tangier should have been recognized by our Government in order to entitle the petitioner to the exemption benefits of the last proviso of Section 122 of our Tax Code."[5]

Hence this appeal to this Court by petitioner. The respective briefs of the parties were duly submitted, but as above indicated, instead of ruling definitely on the question, this Court, on May 30, 1962, resolved to inquire further into the question of reciprocity and sent back the case to the Court of Tax Appeals for the reception of evidence thereon. The dispositive portion of such resolution reads as follows: "While section 122 of the Philippine Tax Code aforequoted speaks of 'intangible personal property' in both sub-divisions (a) and (b); the alleged laws of Tangier refer to 'bienes muebles situados en Tanger', 'bienes muebles radicantes en Tanger', 'movables' and 'movable property'. In order that this Court may be able to determine whether the alleged laws of Tangier grant the reciprocal tax exemptions required by Section 122 of the Tax Code, and without, for the time being, going into the merits of the issues raised by the petitioner-appellant, the case is [remanded] to the Court of Tax Appeals for the reception of evidence or proofs on whether or not the words 'bienes muebles', 'movables' and 'movable property' as used in the Tangier laws, include or embrace 'intangible personal property', as used in the Tax Code."[6] In line with the above resolution, the Court of Tax Appeals admitted evidence submitted by the administrator, petitioner Antonio Campos Rueda, consisting of exhibits of laws of Tangier to the effect that "the transfers by reason of death of movable properties, corporeal or incorporeal, including furniture and personal effects, as well as of securities, bonds, shares, \* \* \*, were not subject, on that date and in said zone, to the payment of any death tax, whatever might have been the nationality of the deceased or his heirs and legatees." It was further noted in an order of such Court referring the matter back to us that such "exhibits were duly admitted in evidence during the hearing of the case on September 9, 1963. Respondent presented no evidence."[7]

The controlling legal provision as noted is a proviso in Section 122 of the National Internal Revenue Code. It reads thus: "That no tax shall be collected under this Title in respect of intangible personal property (a) if the decedent at the time of his death was a resident of a foreign country which at the time of his death did not impose

a transfer tax or death tax of any character in respect of intangible personal property of citizens of the Philippines not residing in that foreign country, or (b) if the laws of the foreign country of which the decedent was a resident at the time of his death allow a similar exemption from transfer taxes or death taxes of every character in respect of intangible personal property owned by citizens of the Philippines not residing in that foreign country." [8] The only obstacle therefore to a definitive ruling is whether or not as vigorously insisted upon by petitioner the acquisition of international person-ality is a condition sine qua non to Tangier being considered a "foreign country." Deference to the De Lara ruling, as was made clear in the opening paragraph of this opinion, calls for an affirmance of the decision of the Court of Tax Appeals.

It does not admit of doubt that if a foreign country is to be identified with a state, it is required in line with Pound's formulation that it be a politically organized sovereign community independent of outside control bound by ties of nationhood, legally supreme with-in its territory, acting through a government functioning under a regime of law. [9] It is thus a sovereign person with the people com-posing it viewed as an organized corporate society under a government with the legal competence to exact obedience to its commands. [10] It has been referred to as a body-politic organized by common consent for mutual defense and mutual safety and to promote the general welfare. [11] Correctly has it been described by Esmein as "the juridical personification of the nation." [12] This is to view it in the light of its historical development. The stress is on its being a nation, its people occupying a definite territory, politically organized, exercising by means of its government its sovereign will over the individuals within it and maintaining its separate international person-ality. Laski could speak of it then as a territorial society divided into government and subjects, claiming within its allotted area a supremacy over all other institutions. [13] McIver similarly would point to the power entrusted to its government to maintain within its territory the conditions of a legal order and to enter into inter-national relations. [14] With the latter requisite satisfied, inter-national law does not exact independence as a condition of statehood. So Hyde did opine. [15]

Even on the assumption then that Tangier is bereft of international personality petitioner has not successfully made out a case. It bears repeating that four days after the filing of this petition on January 6, 1958 in Collector of Internal Revenue v. De Lara, [16] it was specifically held by us: "Considering the State of California as a foreign country in relation to section 122 of our Tax Code we believe and hold, as did the Tax Court, that the Ancilliary Administrator is entitled to exemption from the inheritance tax on the intangible personal property found in the Philippines." [17] There can be no doubt that California as a state in the American Union was lacking in the alleged requisite of international personality. Nonetheless, it was held to be a foreign country within the meaning of Section 122 of the National Internal Revenue Code. [18]

What is undeniable is that even prior to the De Lara ruling, this Court did commit itself to the doctrine that even a tiny principality, that of Liechtenstein, hardly an international person-ality in the traditional sense, did fall under this exempt category. So it appears in an opinion of the Court by the then Acting Chief Justice Bengzon, who thereafter assumed that position in a permanent capacity, in Kiene v. Collector of Internal Revenue. [19] As was therein noted: "The Board found from the documents submitted to it - proof of the laws of Liechtenstein - that said country does not impose estate, inheritance and gift taxes on intangible personal property of Filipino citizens not residing in that country. Wherefore, the Board declared that pursuant to the exemption above established, no estate or inheritance taxes were collectible, Ludwig Kiene being a resident of Liechtenstein when he passed away." [20] Then came this definitive ruling: "The Collector - hereafter named respondent - cites decisions of the United States Supreme Court and of this Court, holding that intangible personal property in the Philippines belonging to a non-resident foreigner, who died outside of this country is subject to the estate tax, in disregard of the principle 'mobilia sequuntur personam'. Such property is admittedly taxable here. Without the proviso above quoted, the shares of stock owned here by the Ludwig Kiene would be concededly subject to estate and

inheritance taxes. Nevertheless our Congress chose to make an exemption where conditions are such that demand reciprocity - as in this case. And the exemption must be honored.”[21]

WHEREFORE, the decision of the respondent Court of Tax Appeals of October 30, 1957 is affirmed. Without pronouncement as to costs.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Barredo, Villamor, and Makasiar, JJ., concur.

Reyes, J.B.L., J., in the result.

Teehankee, J., did not take part.

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[1] Commonwealth Act No. 466 as amended (1939).

[2] Collector of Internal Revenue v. De Lara, 102 Phil. 813 (1958).

[3] Annex C, Petition, Decision of Court of Tax Appeals, p. 1.

[4] Ibid, pp. 2-3.

[5] Ibid, p. 9.

[6] Resolution, pp. 4-5.

[7] Order of November 19, 1963, p. 2.

[8] Section 122 of the National Internal Revenue Code (1939) reads insofar as relevant: "For the purposes of this Title the terms 'gross estate' and 'gift' include real estate and tangible personal property, or mixed, physically located in the Philippines; franchise which must be exercised in the Philippines; shares, obligations, or bonds issued by any corporation or sociedad anonima organized or constituted in the Philippines in accordance with its laws; shares, obligations, or bonds issued by any foreign corporation eighty-five per centum of the business of which is located in the Philippines; shares, obligations, or bonds issued by any foreign corporation if such shares, obligations, or bonds have acquired a business situs in the Philippines; shares or rights in any partnership, business or industry established in the Philippines; or any personal property, whether tangible or intangible, located in the Philippines; Provided, however, That in the case of a resident, the transmission or transfer of any intangible personal property, regardless of its location, subject to the taxes prescribed in this Title; And provided, further, that no tax shall be collected under this Title in respect of intangible personal property (a) if the decedent at the time of his death was a resident of a foreign country which at the time of his death did not impose a transfer tax or death tax of any character in respect of intangible personal property of citizens of the Philippines not residing in that foreign country, or (b) if the laws of the foreign country of which the decedent was a resident at the time of his death allow a similar exemption from transfer taxes or death taxes of every character in respect of intangible personal property owned by citizens of the Philippines not residing in that foreign country."

[9] Cf. Pound: "The political organization of a society legally supreme within and independent of legal control from without." II Jurisprudence, p. 346 (1959).

[10] Cf. Willoughby, Fundamental Concepts of Public Law, p. 3 (1925).

[11] Cf. 1 Cooley, Constitutional Limitations, p. 3 (1927).

[12] Cf. Cohen, Recent Theories of Sovereignty, p. 15 (1937). Pitamic speaks of it as a juridical organization of human beings. Treatise on the State, p. 17 (1933).

[13] Laski, Grammar of Politics, p. 25 (1934).

[14] Cf. *McIver, The State*, p. 22 (1926).

[15] *Hyde, International Law*, 2nd ed., p. 22 (1945).

[16] 102 Phil. 813 (1958).

[17] *Ibid*, p. 820.

[18] In the subsequent case of *Collector of Internal Revenue v. Fisher*, L-11622, January 28, 1961, 1 SCRA 93, this Court did find that the recipro-city found in the California statutes was partial not total, thus holding that Section 122 would not apply, without however reversing the doctrine that an international personality is not a requisite.

[19] 97 Phil. 352 (1955).

[20] *Ibid*, p. 354.

[21] *Ibid*, p. 355.

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