

COLLECTOR OF INTERNAL REVENUE, PETITIONER, V. ST. STEPHEN'S ASSOCIATION, ET AL., RESPONDENTS.

L-15562. May 31, 1941

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is an appeal taken by the Collector of Internal Revenue from the decision of the Court of Tax Appeals declaring the respondents exempt from the payment of a gift tax. The circumstances giving rise to the dispute were admittedly the following:

"Sometime in 1903, Bishop Brent of the Protestant Episcopal Church of the United States of America in the Philippines founded the St. Stephen's Church (hereinafter called the Church) with the following objectives: (1) to attract all Chinese residents in the Philippines who had to place of worship, and (2) to convert the Chinese residents to Christianity. One major problem that confronted the Church was the bringing up of the children of its members in accordance with the precepts of Christianity. At that time, there was one school for Chinese boys which was called the Anglo-Chinese School, but there was no school for girls. Fr. H.E. Studley, who was then the parish priest of the Church, conceived the idea of establishing a school for young Chinese girls; (2) to bring Chinese girls into the Church; and (3) to provide Christian wives for young Chinese men, thus establishing Christian homes. With the help of the prominent members of the Church and the financial assistance extended by the Episcopal Church, the St. Stephen's Chinese Girl School (hereinafter called the School) was finally established.

The School was wholly administered, maintained and supported by the Church. Enrollment was limited because of lack of rooms and facilities. More than that, the funds coming from the Department of Missions of the Protestant Episcopal Church of the United States of America were not sufficient. But there was a pressing need to enlarge the School because of the continued increase in the members of the Church. The leading members of the Church therefore organized and incorporated in 1931 the St. Stephen's Association (hereinafter called the Association) with this objective:

'To support and maintain school or schools wherein the arts, sciences, and other studies embraced in a kindergarden, primary, intermediate, high school and collegiate courses of instruction are taught to children of Chinese percentage or Chinese descent.' (See exhibit A-1).

The association took over this administration and management of the School from the Church. To solved the recurrent financial difficulties that faced the School, the Association solicited voluntary contributions from the members of the Church and the Chinese community. An aggregate amount of P50,000 was collected and this sum was earmarked as Endowment Fund for the School. This amount was deposited by the Association with the China Banking Corporation to earn interest. At times, certain sums were withdrawn from the bank and loaned to private individuals in order of earned by the Endowment Fund was turned over by the Association to the School as a School Fund. At present, the School (Endowment) Fund is one of the main sources of funds for the support of the School. The interest eared by the Endowment Fund as of January 1, 1950 was P11,993.09.

As already stated, the School was established in 1917 but it was incorporated only in 1932 x x x.

After the incorporation of the school, the administration of its affairs devolved upon its board of trustees. However, the administration of its affairs devolved upon its board of trustees. However, the administration and control over the Endowment Fund remained with the Association. Hence, it was expressly stated in paragraph 7 of the Articles of Incorporation of the School (Exhibit G).

"Seventh - That the amount of money to be used in the maintenance of said school shall be such sums that may be received from St. Stephen's Association, the Department of Missions of the Protestant Episcopal Church in the United States of America, tuition fees, or from the public thru donations, bequest, gift, endowment, or other sources." (Exhibit C-2, *Italics supplied*)

"The members of the board of trustees of the School are elected from the members of the Association. Any vacancy in the board of School is filled by a majority vote of the members of the board of trustees of the Association. All acts of the School's board of trustees are subject to control by the board of trustees of the Association. (See exhibits C-1 and D-1). The treasurer of the School performs the duties to him by the treasurer of the association. (Art. IV, Sec. 4, By-laws of School). In reality, therefore, the affairs of the School continued to be managed and conducted by the Association.

On January 20, 1950, the Association delivered to the School a China Banking Corporation Check No. VB-42301 in the amount of P9,252.48 as School Fund. This amount was part of P11,993.09 earned by the Endowment Fund as of January 1, 1950. The balance of P2,740.61 was retained by the Association for the future use of the School. The transfer was entered on page 1 of the journal (Exhibit F-1) and page 59 of the ledger (Exhibit G-1) of the Association. Receipt of this amount was also entered by the bookkeeper of the School, Mr. Jaime Hiso, on January 21, 1950 on page 49 of the School's ledger (Exhibit E-1). The account on page 49 of the School's ledger (Exhibit E-1) is captioned "Gifts, Donations - Received". During the routine inspection of the books of the School by the officers of the Bureau of Internal Revenue, the examiner came across this particular entry on page 49 of the School's ledger. Because the account on this page is designated "Donations, GIFTS - Received", respondent assessed against petitioners in his Assessment Notice No. G. 3008-50, dated October 15, 1950; the amounts of P98.70 and P699.07 as donor's and donee's gift taxes plus surcharges and interests." (pp. 160-163, CTA, rec.)."

In its decision the Tax Court held (a) that the money given (P9,252.48) to the School was not a gift by the Association but a gift by the different persons who had contributed to the Endowment Fund and as none of these persons was taxable according to the Collector himself, no gift tax was due on the transfer; and (b) even granting that the amount handed to the School was a gift by the Association, there is no duty to pay, because neither the School nor the Association, was an "individual" within the meaning of the statute (1), which is quoted in the margin.^[1] The Collector appealed, and in his printed brief discussed extensively the proposition that the word "individual" includes both natural and juridical persons. He did not dispute the Tax Court's finding that the money really came from the individuals who had contributed to the Endowment Fund. Said the Tax Court in that connection:

"It is admitted that the sum of P9,252.48 was derived by the Association from funds obtained by its means of contributions from persons who sympathized with its purpose and objective of maintaining and supporting the School and that the transfer of said amount to the School was made in compliance with such purpose and objective. Under these facts, we are of the opinion that the transfer by the Association to the School of the Sum of P9,252.48 was not a transfer by way of gift. The said amount formed part of the trust fund which the Association was under obligation to give to the School. The various contributors to the Endowment Fund of the Association gave their contributions not for the support and maintenance of the Association but of the School. Accordingly, when the Association transferred to the School an amount taken from the Endowment Fund; the transfer was not a gift by the Association to the School; it was a gift by the various contributors to the School. And respondent

himself admits that "the gifts or donations by the contributors to the Association, are severally exempt from the donor's and donee's gift taxes." x x x As this finding is mainly factual, specially as to the purpose the contributions, the keeping and the transmission of funds, the proposition is not now open to question that the gift was not a gift by the Association to the School but by the various contributors; and as none of such contributors had given more than P,1000 no donor's or donee's tax was demandable.

On this point alone, the decision under review may be sustained. It is necessary to discuss the other point.

Judgment affirmed. No costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

Barerra, J., no part.

[1] " SEC. 108. Imposition of tax. - (a) There shall be levied, assessed, collected, and paid upon the transfer by any individual, resident or non-resident, of property by gift, a tax, computed as provided as provided in section 109.

"(b) The tax shall, apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible."

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