

THE COLLECTOR QF INTERNAL REVENUE, PETITIONER VS. V. G. SINCO EDUCATIONAL CORPORATION, RESPONDENT.*G.R. No. L-9276. October 23, 1956*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a decision of the Court of Tax Appeals which orders the Collector of Internal Revenue to refund to respondent-appellee the sum of P5,364.77 representing income tax paid by said appellee for the years 1950 and 1951.

In June, 1949, Vicente G. Sinco established and operated an educational institution known as Foundation College of Dumaguete. Sinco would have continued operating said college were it not for the requirement of the Department of Education that as far as practicable schools and colleges recognized by the government should be incorporated, and so on September 21, 1951, the V. G. Sinco Educational Institution was organized. This corporation was non-stock and was capitalized by V. G. Sinco and members of his immediate family. This corporation continued the operations of Foundation College of Dumaguete. Since its operation, this college derived, by way of tuition fees, the following yearly gross profits:

Year

Gross Receipt

1949

P32,684.70

1960

88,341.80

1951

114,499.35

1952

83,259.04

1953

97,907.18

The investigation conducted by an income tax examiner of the Bureau of Internal Revenue revealed that the college realized a taxable net income for the year 1949 in the sum of P3,098.06 and for the year 1950 in the sum

of P17,038.59. For the years 1951 to 1953, inclusive, the income tax returns of the college have not as yet been verified but it reported a taxable net profit of P26,868.60 for the year 1951; a loss of P9,129.80 for the year 1952 and a profit of P223.56 for the year 1953. The Collector of Internal Revenue assessed against the college an income tax for the years 1950 and 1951 in the aggregate sum of P5,364.77, which was paid by the college. Two years thereafter, the corporation commenced an action in the Court of First Instance of Negros Oriental for the refund of this amount alleging that it is exempt from income tax under section 27 (e) of the National Internal Revenue Code. Pursuant to the provisions of Republic Act 1125, the case was remanded to the Court of Tax Appeals which, after due trial, decided the case in favor of the corporation.

Invoking section 27 (e) of the National Internal Revenue Code, the appellee claims that it is exempt from the payment of the income tax because it is organized and maintained exclusively for the educational purposes and no part of its net income inures to the benefit of any private individual. On the other hand, the appellant maintains that part of the net income accumulated by the appellee inured to the benefit of V. Q. Sinco, president and founder of the corporation, and therefore the appellee is not entitled to the exemption prescribed by the law.

In support of his stand, appellant invokes the yearly statements of operation or balance sheets submitted by the corporation. Thus, in the balance sheets for the years 1951, 1952 and 1953, there appear the following entries:

1951

LIABILITIES

ACCOUNTS PAYABLE:

Community Publishers, Inc..... P20,751.95

Vicente G. Sinco, Personal..... 7,435.83

TOTAL LIABILITIES P28,187.78

1952

LIABILITIES

ACCOUNTS PAYABLE:

Vicente G. Sinco, Personal P12,669.07

Community Publishers, Inc.....32,135.50

TOTAL LIABILITIES P44,804.57

1953

LIABILITIES

ACCOUNTS PAYABLE:

Vicente G. Sinco, Personal

Cash Advanced..... P9,716.36

Accrued Salaries 7,599.71

P17,316.07

Community Publishers, Inc.

Cash Advanced..... P18,762.68

Printing Account 13,262.72

P32,025.40

. TOTAL LIABILITIES P49,341.47

Considering the above quoted entries, appellant claims that a great portion of the net profits realized by the corporation was channeled and redounded to the personal benefit of V. G. Sinco, who was its founder and president. Another benefit that accrued to Sinco according to appellant is represented by the several amounts which appear payable to the Community Publishers, Inc. because, being the biggest stockholder of this entity, the money to be paid by the appellee to that entity as appearing in the above quoted entries would redound to the personal benefit of Sinco.

Is it really correct to say that the appellee is an educational institution in which part of its income inures to the benefit of one of its stockholders as maintained by appellant? Considering that this claim is mainly predicated on certain entries appearing in the balance sheets of the corporation for the years 1950 and 1951, there is need to clarify the purposes for which said entries were made, particularly those referring to the accounts payable to V. G. Sinco and the Community Publishers Inc.

With regard to this accounts, Dean Sinco made the following clarification: He acted as president of the Foundation College and as chairman of its Board of Directors; in 1949 he served as its teacher for a time; the accountant of the college suggested that a certain amount be set aside as his salary for purposes of orderly and practical accounting; but notwithstanding this suggestion, he never collected his salary for which reason it was carried in the books as accrued expenses. With regard to the account of the Community Publishers, Inc., Sinco said that this is a distinct and separate corporation although he is one of its stockholders. The account represents payment for services rendered by this entity to the college. These are two different entities and whatever relation there is between the two is that the former merely extends help to the latter to enable it to comply with the requirements of the law and to fill its needs for educational purposes. This clarification made by Sinco stand undisputed.

Considering this explanation, it is indeed too sweeping if not unfair to conclude that part of the income of the appellee as an institution inured to the benefit of one of its stockholders simply because part of the income was carried in its books as accumulated salaries of its president and teacher. Much less can it be said that the payments made by the college to the Community Publishers, Inc. redounded to the personal benefit of Sinco simply because he is one of its stockholders. The fact is that, as it has been established, the appellee is a non-profit institution and since its organization it has never distributed any dividend or profit to its stockholders. Of course, part of its income went to the payment of its teachers or professors and to the other expenses of the college incident to an educational institution but none of the income has ever been channeled to the benefit of any individual stockholder. The authorities are clear to the effect that whatever payment is made to those who work for a school or college as a remuneration for their services is not considered as distribution of profit as would make the school one conducted for profit. Thus, in the case of Mayor and Common Council of Borough of Princeton vs. State Board of Taxes & Assesments, et al., 115 Atl., 342, wherein the principal officer of the school was formerly its

owner and principal and such principal lie was given a salary for his services, the court held that that school is not conducted for profit merely because moderate salaries were paid to the principal and to the teachers.

Of course, it is not denied that the appellee charges tuition fees and other fees for the different services it renders to the students and in fact it is its only source of income, but such fact does not in itself make the school a profit-making enterprise that would place it beyond the purview of the law. In this connection, this Court made the following comment:

"Needless to say, every responsible organization must be so run as to, at least, insure its existence, by operating within the limits of its own resources, especially its regular income. In other words, it should always strive, whenever possible, to have a surplus. Upon the other hand, appellant's pretense would limit the benefits of the exemption, under said section 27 (e), to institutions which do not hope, or propose, to have such surplus. Under this view, the exemption would apply only to schools which are on the verge of bankruptcy, for—unlike the United States, where a substantial number of institutions of learning are dependent upon voluntary contributions and still enjoy economic stability, such as Harvard, the trusted fund of which, has been steadily increasing with the years—there are, and there have always been, very few educational enterprises in the Philippines which are supported by donations, and these organizations usually have a very precarious existence. The final result of appellant's contention, if adopted, would be to discourage the establishment of colleges in the Philippines, which is precisely the opposite of the objective consistently sought by our laws.

"Again, the amount of fees charged by a school, college or university depends, ultimately, upon the policy and a given administration, at a particular time. It is not conclusive of the purposes of the institution. Otherwise, such purpose would vary with the particular persons in charge of the administration of the organization." (Jesus Sacred Heart College ps. Collector of Internal Revenue, 95 Phil., 16).

Another point raised by appellant to show that appellee is not entitled to the exemption of the law refers to the use made by it of part of its income in acquiring additional buildings and equipment which, it is claimed would in the end redound to the benefit of its stockholders. Appellant claims that "By capitalizing its earnings in the aforementioned manners, the value of the properties of the corporation was enhanced and, therefore, such profits inured to the benefit of the stockholders or members. The property of the corporation may be sold at any time and the profits thereof divided among the stockholders or members."

This claim is too speculative. While the acquisition of additional facilities, may redound to the benefit of the institution itself, it cannot be positively asserted that the same will redound to the benefit of its stockholders, for no-one can predict the financial condition of the institution upon its dissolution. At any rate, it has been held by several authorities that the mere provision for the distribution of its assets to the stockholders upon dissolution does not remove the right of an educational institution from tax exemption. Thus, in the case of *U. S. vs Picwick Electric Membership Corp.*, 158 F. 2d 272, 277, it was held—"The fact that the members may receive some benefit on dissolution upon distribution of the assets is a contingency too remote to have any material bearing upon the question where the association is admittedly not a scheme to avoid taxation and its good faith and honesty or purpose is not challenged."

With regard to the claim of appellant that appellee is not entitled to exemption because it has not complied with the requirement of section 24, Regulation No. 2 of the Department of Finance, we find correct the following observation of the Court of Tax Appeals:

"And regarding the proof of exemption required by section 24, Regulation No. 2, Department of Finance which, according to the 'defendant, is a condition precedent before an educational institution can avail itself of the exemption under consideration, we understand that it was probably promulgated for the effective enforcement of the provisions of the Tax Code pursuant to Section 338 of the National Internal Revenue Code. Intended to relieve the taxpayer of the duty of filing returns and paying the tax, it cannot be said that the failure

to observe the requirement called for therein constitutes a waiver of the right to enjoy the exemption. To hold otherwise would be tantamount to incorporating into our tax laws some legislative matter by administrative regulation."

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

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

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