

[With resolution of Sept. 26, 1961]*G.R. No. L-11976. August 29, 1961*

Ponente: DIZON, J.

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From the stipulation of facts and some documents submitted as evidence by the parties it appears that Doña Teresa Tuason y de la Paz died in Manila on March 9, 1951 leaving a last will and testament, subsequently admitted to probate in the Court of First Instance of said city (Civil Case No. 13447). It provided that, with the exception of five specific legacies amounting to P80,800, all her property be distributed in equal shares among 14 heirs, respondents Antonio, Benito and Mauro, all surnamed Prieto, being amongst them.

On February 14, 1952 the probate court approved the project of partition submitted by the Executrix, according to which the value of the inventoried estate amounted to P3,513,073.63. Deducting therefrom the five specific legacies amounting to a total of P80,800.00, the resulting net estate to be divided equally among the 14 heirs was P3,432,273.63, this entitling each heir to a share with a value of P245,162.40.

For purposes of estate and inheritance taxes, however, petitioner Collector of Internal Revenue evaluated the net estate in the total sum of P3,757,286.22. Deducting therefrom the total value of the specific legacies amounting to P80,800.00, the residual estate was P3,676,486.22, to be divided equally among the 14 heirs as follows:

1.

Antonio Prieto

P262,606.16

2.

Benito Prieto

262,606.16

3.

Mauro Prieto

262,606.16

4.

Rosario Legarda

262,606.16

5.

Alejandro Legarda

262,606.16

6.

Teresa Legarda

262,606.16

7.

Beatriz Legarda

262,606.16

8.

Jose Legarda

262,606.16

9.

Teresa Valdez

262,606.16

10.

Jose Valdez

262,606.16

11.

Maria Rosario Valdez

262,606.16

12.

Carmen Valdez

262,606.16

13.

Maria Rita Valdez

262,606.16

14.

Rafael Valdez

43,767.69

15.

Mercedes Valdez

43,767.69

16.

Manuel Valdez

43,767.69

17.

Natividad Valdez

43,767.69

18.

Benito Valdez

43,767.69

19.

Jose Francisco Valdez

43,767.69

However, because of the impossibility of dividing the real properties of the testatrix equally among the 14 heirs, to respondents Antonio, Benito and Mauro Prieto were allotted properties with a total value greater than that of the properties allotted to the other 11 heirs. It was, therefore, agreed that, to equalize the shares of the heirs, the three respondents should reimburse in cash to their coheirs the resulting difference in value. Pursuant to this agreement, Antonio Prieto paid the sum of P110,999.98 to his 13 coheirs as follows:

To the six heirs surnamed Valdez

P51,230.76;

To the five heirs surnamed Legarda

P42,692.30;

and to Benito and Mauro Prieto

P17,076.92.

For their part, Benito and Mauro Prieto paid to their 12 coheirs the total sum of P66,999.96 apportioned as follows:

To Antonio Prieto

P5,583.33;

To the 5 heirs surnamed Legarda

P27,916.65;

and to the 6 heirs surnamed, Valdez

P33,499.98.

On January 17, 1952 the Executrix filed with petitioner the corresponding estate and inheritance tax return. Based thereon the estate and inheritance taxes due amounted to P447,491.04 and P494,224.40, respectively. The

corresponding assessment notice was issued by petitioner on January 19, 1952, but after an investigation of the decedent's estate, petitioner appraised the same at a total of P5,855,400.24. Inasmuch as by reason of this increased valuation the estate and inheritance taxes due were increased to P798,840.04 and P1,095,394.19, respectively, petitioner issued a revised assessment notice on January 29, 1952.

The estate tax, as per original assessment notice of January 19, 1952, in the sum of P447,491.04 was paid by the executrix on February 8, 1952.

Upon receipt of the revised assessment the heirs moved for a reconsideration. The reinvestigation of the matter, however, resulted in a new or revised assessment notice issued on July 18, 1952 calling for the sum of P681,692.02 as estate tax, and for P897,154.59 as inheritance tax, from which were to be deducted the sum of P447,491.04 theretofore paid as estate tax and the sum of P182,208.80 as inheritance tax, thus leaving an unpaid balance of P234,200.98 as estate tax and P714,945.79 as inheritance tax.

On October 9, 1952 the Executrix paid the sum of P104,178.44 as additional estate tax, said amount having been allocated by petitioner to the Prietos as follows:

To Antonio Prieto

P39,188.92;

To Benito Prieto

P32,494.76;

To Mauro Prieto

P32,494.76.

After further investigation petitioner issued a revised assessment on December 24, 1952 calling for the payment of an unpaid balance of P673,193.51. The matter appears to have been heard before the Conference Staff of the Bureau of Internal Revenue which, after hearing, made its recommendations. Pursuant thereto petitioner issued the final revised assessment notice on February 18, 1953 calling for the payment of an unpaid balance of P594,920.82.

It is not denied that of the sums of P447,491.04 and P104,178.44 paid as estate taxes by the Executrix, the following amounts: P70,202.88, P63,508.72 and P63,508.72 were allocated or credited to Antonio Prieto, Benito Prieto and Mauro Prieto, respectively against their estate and inheritance tax liabilities. In addition, and on account of the inheritance tax assessed against them, the following amounts were paid:

P43,038.54 by Antonio Prieto;

P63,631.04 by Benito Prieto; and

P63,631.04 by Mauro Prieto

In the final analysis, therefore, Antonio Prieto has paid on account of the estate and inheritance taxes assessed against him, the total sum of P113,241.42; Benito Prieto—the total sum of P137,140.26 and Mauro Prieto—the total sum of P137,140.26. Claiming that the amounts thus collected from them were in excess of the taxes and penalties lawfully due, in the sum of P13,249.26 in the case of Antonio Prieto, and in the sum of P24,424.49 in the case of each of Benito and Mauro Prieto, on January 12, 1955 they asked petitioner to refund the overpayments, but their petition was denied. On appeal, however, the Court of Tax Appeals reversed said ruling and petitioner was ordered to refund to Antonio, Benito and Mauro, all surnamed Prieto, the sums of P13,249.26, P24,424.49 and

P24,424.19, respectively, with interest from March 11, 1953, as to the first, and from December 9, 1954, as to the latter two, without costs. Hence the present appeal.

Petitioner claims in his first assignment of error that the Court of Tax Appeals should have ordered the Executrix of the estate and the other eleven heirs to be joined as parties. In the sixth and seventh, his contention is that, inasmuch as this case involves the refund not only of inheritance taxes but also of estate taxes, respondents have no cause of action as far as the refund of estate is concerned.

In the second, third and fourth assignments of error, petitioner contends that the Court of Tax Appeals erred: (1) in holding that the cash payments made by respondents to their coheirs were made to equalize the shares of all the 14 heirs; (2) in concluding that, for the purpose of computing the estate and inheritance taxes due from respondents, said cash payments should be deducted from the value of the properties respectively received by them from the estate by way of inheritance and (3) in ordering the refund of the amounts claimed, with interests.

Finally, it is petitioner's contention in his fifth assignment of error that the claim for refund of the taxes paid prior to February 14, 1953 was filed out of time in the light of the provisions of Section 306 of the National Internal Revenue Code, because the petition for review was filed in the Court of Tax Appeals only on February 14, 1955.

The first question raised—purely procedural in nature—is without merits. As respondents were only asking for the refund of inheritance taxes, it seems obvious that it was unnecessary for them to implead, or for the Court of Tax Appeals to order the impleading of the executrix and the other 11 heirs. While said parties could have been impleaded to enable the Court of Tax Appeals to accord a more complete relief as between those who were already parties, they were not indispensable parties because, without them, said court was in a position to render—as in fact it rendered—a final determination of the inheritance tax liability of the Prietos. This, of course, is without prejudice to whatever tax liability may be timely demanded from the other heirs.

We now come to the main issue of whether or not there has been an overpayment in connection with respondents' respective inheritance tax liability.

To begin with, it must be borne in mind that, according to the Seventh Clause of the will of Doña Teresa Tuason y de la Paz, "en lo que respecta al 'estate and inheritance tax' cada uno pagara de lo que reciba". For this reason, the estate tax was paid by the Executrix out of the estate funds for the account of the heirs. In this connection, there appears to be no question of any kind as regards the estate tax, because when petitioner made his final assessment notice on February 18, 1953, the estate tax due in the sum of P681,692.02 assessed under the third assessment notice had been fully paid. In view of the subsequent reduction of the estate tax to the sum of P613,129.62, there was an overpayment of said estate tax in the sum of P68,018.02. For this reason, upon making the last assessment notice aforesaid, petitioner gave the heirs a tax credit of P68,018.02 and credited it against the inheritance taxes still unpaid (Vol. II, BIR Records, 321-323).

As stated heretofore, the will of Dona Teresa Tuason y de la Paz directed that, after the payment of the specific legacies therein provided for, the residue of her estate should be divided in equal parts among 14 heirs, namely: (1) Antonio Prieto, (2) Benito Prieto, (3) Mauro Prieto, (4) Rosario Legarda, (5) Alejandro Legarda, (6) Teresa Legarda, (7) Beatriz Legarda, (8) Jose Legarda, (9) Teresa Valdez, (10) Jose Valdez, (11) Maria Rosario Valdez, (12) Carmen Valdez, (13) Maria Rita Valdez, and (14)—constituting only one group of heirs—the Valdezes named Rafael, Mercedes, Manuel, Natividad, Benito and Jose Francisco.

In accordance with the project of partition submitted in the probate proceedings and duly approved by the court, the total value of the estate amounted to P3,513,073.63. Deducting therefrom the value of the five specific legacies amounting to P80,800.00; the net would be P3,432,273.60 to be divided among the 14 heirs at the rate of

P245,162.40 for each of them.

Paragraph A of Clause VII entitled "adjudicaciones" of the project of partition enumerates the properties allotted to Antonio Prieto and contains the following clause:

"Observacion Importante.—Por convenio entre todos los herederos y como una condicion esencial de las anteriores adjudicaciones, Don Antonio Prieto pagara la suma de CIENTO ONCE MIL PESOS (P111,000) moneda filipina, que se repartira por igual entre los trece (13) herederos restantes." (p. 29, Vol. I, BIR Records)

Paragraph B of the same Clause VII enumerates the properties allotted to Benito and Mauro Prieto, and contains likewise a similar clause of the following tenor:

"Observacion Importante.—Por convenio entre todos los herederos y como una condicion esencial de las anteriores adjudicaciones, Don Benito Prieto y Don Mauro Prieto pagaran la suma de SESENTA Y SIETE MIL PESOS (P67,000) moneda filipina, que se repartira por igual entre los doce (12) herederos restantes." (p. 25, Vol. I, BIR Records)

The adjudication of properties to the other heirs (Clause VII of the project of partition) does not contain a similar condition. Moreover, it is apparent from paragraph 5 of Clause IX entitled "OBSERVACIONES FINALES" that, with the project of partition, the heirs intended to carry out the will of the testatrix—to divide her net estate equally among the 14 heirs named in her will.

In accordance with the project of partition, Antonio Prieto received properties worth P368,022.81, while Benito and Mauro Prieto received properties valued at P287,567.68 each, as against properties worth P248,484.37 received by each of the remaining eleven heirs. Adding to the value of the share of Antonio the sum of P5,583.33 he received from Benito and Mauro Prieto (par. 7, Stipulation of Facts), the total share of Antonio amounted to P373,606.14. Deducting from this the sum of P110,000 that he had to pay to his eleven coheirs, the result would be the sum of P262,606.16 representing the net value of his share.

In the case of Benito and Mauro Prieto, the value of the properties allotted to each one of them amounted to P287,567.08, to which should be added the amount of P8,538.46 each received from Antonio Prieto (par. 6, Stipulation of facts), this bringing up to P296,106.14 the value of their individual share. From this amount, however, should be deducted the sum of P33,399.98 which each of them paid to their twelve coheirs, and the result would be the sum of P262,606.16 representing the net value of the share received by each of them.

On the other hand, each one of the Valdezes was allotted properties valued at P248,484.37, to which should be added the sum of P8,538.46 each one of them received from Antonio Prieto and the further sum of P5,583.33 each one of them received from Benito and Mauro Prieto (pars. 6 & 7 Stipulation of Facts), this resulting in the total sum of P262,606.16 each one of them received as his net share in the inheritance.

Exactly the same operation may be made in the case of the five Legarda heirs ending with the result that each of them received a net share worth P262,606.16.

The above shows conclusively that the cash payments demanded from and made by respondents were for the purpose of making equal the share of each one of the fourteen heirs instituted in the last will of the deceased Doña Teresa Tuason y de la Paz.

But petitioner contends that the individual share of each heir in the net estate is what appears in the project of partition, and that the cash payments made by respondents are immaterial in the determination of their respective inheritance tax because the money paid did not form part of the estate of the decedent. We find no merits in these contentions.

It can not be disputed that the inheritance tax should be paid on the basis of the value of the properties inherited by an heir. On the other hand, it is clear in this case that what each of the respondents really and actually received as his share in the inheritance is the value of the properties allotted to them minus what they had to pay to their coheirs to compensate the latter for the difference in value existing between the properties allotted to respondents, on the one hand, and those allotted to the other heirs, on the other. To claim otherwise would be closing one's eyes to the realities of the case. The resulting amount, therefore, is the just and fair basis for the determination of the tax liability of respondents.

On the other hand, the ruling of the Court of Tax Appeals to the effect that petitioner should pay legal interests on the amounts improperly collected from respondents is in accord with our decision in *Carcar Electric & Ice Plant Co., Inc. vs. The Collector of Internal Revenue* (100 Phil., 50; 53 Off. Gaz. [4] 1068). Resolving the Collector's motion for reconsideration in said case, we held:

"We conclude that under the present Internal Revenue Code the Collector of Internal Revenue may be made to answer for interest at the legal rate on taxes improperly collected. Such liability serves as additional safeguard in favor of the taxpayer against arbitrariness in the exaction or collection of taxes and imposts."

With respect to petitioner's contention that the claim for refund had already prescribed when filed, it should be observed that the estate and inheritance taxes in this case were assessed and reassessed by petitioner five different times in the following manner:

Estate Tax

Inheritance Tax

"First Assessment

P447,491.04

P494,224.40

Second Assessment

798,840.04

1,095,394.19

Third Assessment

681,692.02

897,154.59

Fourth Assessment

659,924.74

355,402.31

Last Assessment

613,674.04

777,129.62"

As stated heretofore, when petitioner made his final assessment notice on February 18, 1953, the estate tax assessed under the third assessment notice—P681,692.02—had already been paid in full. Consequently, when the

aforesaid last assessment reduced the estate tax to P613,674.04, there was a resulting overpayment of the estate tax in the sum of P68,018.02 which petitioner credited to the unpaid inheritance taxes due from the heirs. From February 18, 1953, therefore, there was no longer any question of payment or overpayment of the estate tax—which explains the fact that respondents claim refund of inheritance tax only.

On the other hand, according to the stipulation of facts, the three respondents had made the following payments on account of their inheritance taxes after February 12, 1953:

Petitioners

Amount

Date paid

Receipt

Antonio Prieto

Benito Prieto &

Mauro Prieto

P30,000.00

March 11, 1953

39389 V-2

10,000.00

Sept. 1, 1953

42393 V-2

10,000.00

Jan. 16, 1954

42902 V-2

20,000.00

June 9, 1954

48923 V-2

30,592.50

Dec. 9, 1954

49261 V-2

30,592.50

Dec. 9, 1954

49260 V-2

Inasmuch as, according to petitioner himself, the claim for refund was filed or made on February 14, 1955, it is obvious that the same was filed within the period of two years provided by law. The following considerations made by the Court of Tax Appeals on this matter sufficiently disposes of it:

"In connection with the statute of limitations as to the inheritance tax, the evidence show, that considering the amount involved, the entire tax liability of the petitioner for both estate tax and inheritance tax were settled thru periodical payments or installments, approved by respondent until the total amount was satisfied. In fact, the last payment of the inheritance tax pertaining to Antonio Prieto was made on March 11, 1953 and as regards Benito Prieto and Mauro Prieto on December 9, 1954 (par. 20, Stipulation of Facts). On January 12, 1955 petitioners filed their claim for refund of the taxes allegedly overpaid and on January 14, 1955 respondent rendered his decision thereon from which petitioners interposed the present appeal.

"The defunct Board of Tax Appeals in the case of RCA Communications, Inc. vs. David (B.T.A. Case No. 116, Resolution, June 18, 1953) held that when the tax is paid in installments, the prescriptive period of two years provided in section 306 of the Revenue Code should be counted from the date of the final payment. We agree with this view as being reasonable and which appears to be the uniform doctrine in American jurisdiction. This rule proceeds from the theory that, in contemplation of tax laws, there is no payment until the whole or entire tax liability is completely paid. Thus, a payment of a part or portion thereof, can not operate to start the commencement of the statute of limitations. In this regard the word "tax", or words "the tax" in statutory provisions comparable to section 306 of our Revenue Code have been uniformly held to refer to the entire tax and not a portion thereof (Clark vs. U.S. 69 F 2d 748; A.S. Kriedner Co. vs. U.S. 30 F Supp. 724; Hills vs. U.S. 50 F 2d 302, 55 F 2d 1001), and the vocables "payment of tax" within statutes requiring refund claim, refer to the date when all the tax was paid, not when a portion was paid (Braun vs. U.S. 8 F Supp. 860, 863). Hence, applying the foregoing rule to the instance case, the filing of the claim for refund of the inheritance tax on January 12, 1955 and the filing of the instant petition for review on February 14, 1955 were well within the two-year period counted from March 11, 1953 and December 9, 1954 when the final payment of the tax liability was made. We are therefore of the opinion and so hold that the present action was filed seasonably within the purview of section 306 of the Tax Code."

Premises considered, the decision appealed from is affirmed.

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

RESOLUTION

September 26, 1961

DIZON, J.:

Before us is petitioner's motion praying that our decision of August 29, 1961 be reconsidered and set aside "insofar as said decision affirms the ruling of the Court of Tax Appeals charging interest against the government on the tax payment declared refundable to the respondents". He relies upon our decision in Collector of Internal Revenue vs. St. Paul's Hospital of Iloilo, promulgated on May 25, 1959, in which we said:

"We agree, however, with the Solicitor General that the Court of Tax Appeals erred in ordering the payment of interest on the amount to be refunded to respondent herein. In the absence of a statutory provision clearly or expressly directing or authorizing such payment, and none has been cited by respondent, the National Government cannot be required to pay interest (H. E. Heacock Co. vs. Collector of Customs, 37 Phil., 970,

Marine Trading Co. vs. Gov't of the P.I., 39 Phil., 29; Sarasola vs. Trinidad, 40 Phil., 252). So much of the decision appealed from as requires the payment of interest should, therefore, be eliminated."

Prior, however, to the decision relied upon we held in *Carcar Electric & Ice Plant Co., Inc. vs. Collector of Internal Revenue* (100 Phil., 50; 53 Off. Gaz., [4] 1068) that "under the present Internal Revenue Code the Collector of Internal Revenue may be made to answer for interest at the legal rate on taxes improperly collected. Such liability serves as additional safeguard in favor of the taxpayer against arbitrariness in the exaction or collection of taxes and imposts." (See Resolution on the Motion for Reconsideration filed by the Collector of Internal Revenue, 53 Off. Gaz., No. 4, pp. 1071-1075).

In reasoning our Resolution in the *Carcar* case we said that "Under the Internal Revenue Act of 1914, the Collector of Internal Revenue was liable for interest on taxes improperly collected as held in *Hongkong Shanghai Bank vs. Rafferty*, 39 Phil. 153; *Heacock Co. vs. Collector of Customs*, 37 Phil. 970, *Vda. Hijos de P. Roxas vs. Rafferty*, 37 Phil. 957"; that, subsequently, Section 1579 of the Administrative Code of 1917 expressly authorized suits against the Collector of Internal Revenue "for the recovery without interest of the sum alleged to have been illegally collected"; that for this reason, thereafter no judgments for interest were rendered against the Collector; that in 1939, the National Internal Revenue Code, in its section 306, authorized recovery of taxes erroneously or illegally collected, but omitting the expression "without interest" employed in the aforesaid section of the Administrative Code of 1917, which it superseded; that considering our repeated rulings holding the Collector of Internal Revenue liable for interest on taxes improperly collected, in the absence of express exemption, it was clear that the Legislature's failure to reenact the words "without interest" of the Administrative Code of 1917 showed a clear desire to return to the rule in force before said year.

Our decision in the *Carcar* case, however, must be understood as holding the Collector of Internal Revenue liable for interest on taxes improperly collected only if the collection was attended with "arbitrariness". The facts involved in the case relied upon by petitioner—the *St. Paul's Hospital of Iloilo* case—do not seem to justify the conclusion that arbitrariness attended or characterized the collection of the taxes in question therein. Said facts are as follows:

"Petitioner is a corporation 'dedicated to charitable, educational and religious purposes', operating a hospital giving medical assistance to destitute persons. (See *St. Paul's Hospital of Iloilo vs. Collector of Internal Revenue*, C.T.A. Case No. 6, promulgated on December 4, 1954). It maintains a pharmacy department within the premises of its hospital to supply drugs and medicines only to charity and paying patients confined therein. However, only the paying patients are required to pay the medicines supplied to them and the charge consists of the cost of such medicines plus an additional 10% thereof to partly offset the cost of medicines supplied free of charge to charity patients. On May 6, 1954, respondent assessed and demanded from petitioner the sum of P485.00 allegedly representing business tax on its operation of a pharmacy department. From this assessment petitioner appealed to this Court."

The question of whether or not the sale of drugs and medicines made at the pharmacy department of the *St. Paul's Hospital of Iloilo* were taxable was, in our opinion, a fairly debatable issue. The Collector, therefore, can not be said to have acted arbitrarily in assessing the corresponding tax on the hospital. This being the case, we see no real conflict between our decision in the *Carcar* case, on the one hand, and the one rendered in the *St. Paul's Hospital of Iloilo* case.

The question we now have to decide is whether the first or the second ruling is the one applicable to the present case. Upon consideration of the facts appearing of record we believe that it is the first. The Collector of Internal Revenue had no reason to insist in collecting the inheritance tax from respondents on the basis of the value of the properties allotted to each of them, in accordance with the project of partition submitted to and approved by the

court, without deducting therefrom the cash payments which, in accordance with their agreement with their coheirs, they had to pay to the latter for the purpose of making the share of each heir equal in value to that of the others—as ordained in the will of the deceased Dona Teresa Tuason y de la Paz, and as agreed among her heirs. What each of the respondents really received as his share in the estate of said deceased was the value of the properties allotted to each of them minus the cash payment each had to make in order to equalize their respective share with that of the other heirs. The collection of the inheritance taxes herein involved being clearly unjustified, we are constrained, as already stated above, to hold the ruling in the Carcar case applicable to the present.

Wherefore, petitioner's motion for reconsideration is hereby denied.

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

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