

REV. FR. CASIMIRO LLADOC, PETITIONER, VS. THE COMMISSIONER OF THE INTERNAL REVENUE AND THE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-19201. June 16, 1965

Ponente: PAREDES, J.

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PAREDES, J.:

Sometime in 1957, the M.B. Estate, Inc., of Bacolod City, donated P10,000.00 in cash to Rev. Fr. Crispin Ruiz, then parish priest of Victorias, Negros Occidental, and predecessor of herein petitioner, for the construction of a new Catholic Church in the locality. The total amount was actually spent for the purpose intended.

On March 3, 1958, the donor M.B. Estate, Inc., filed the donor's gift tax return. Under date of April 29, 1960, the respondent Commissioner of Internal Revenue issued V an assessment for donee's gift tax against the Catholic Parish of Victorias, Negros Occidental, of which petitioner was the priest. The tax amounted to P1,370.00 including surcharges, interests of 1% monthly from May 15, 1958 to June 15, 1960, and the compromise for the late filing of the return.

Petitioner lodged a protest to the assessment and requested the withdrawal thereof. The protest and the motion for reconsideration presented to the Commissioner, of Internal Revenue were denied. The petitioner appealed to the Court of Tax Appeals on November 2, 1960. In the petition for Review, the Rev. Pr. Caslmiro Lladoc, claimed among others, that at the time of the donation, he was not the parish priest in Victorias; that there is no legal entity or juridical person known as the "Catholic Parish Priest of Victorias," and therefore, he should not be liable for the donee's gift tax. It was also asserted that the assessment of the gift tax, even against the Roman Catholic Church, would not be valid, for such would be a clear violation of the provisions of the Constitution.

After hearing, the CTA rendered judgment, the pertinent portions of which are quoted below:

"* * *. Parish priests of the Roman Catholic Church under canon laws are similarly situated as its Archbishops and Bishops with respect to the properties of the church within their parish. They are the guardians, superintendents or administrators of these properties, with the right of succession and may sue and be sued.

* * * * *

"The petitioner impugns the fairness of the assessment with the argument that he should not be held liable for gift taxes on donation which he did not receive personally since he was not yet the parish priest of Victorias in the year 1957 when said donation was given. It is intimated that if someone has to pay at all, it should be petitioner's predecessor, the Rev. Fr. Crispin Ruiz, who received the donation in behalf of the Catholic parish of Victorias or the Roman Catholic Church. Following petitioner's line of thinking, we would be equally unfair to hold that the assessment now in question should have been addressed to, and collected from the Rev. Fr. Crispin Ruiz to be paid from income derived from his present parish wherever it may be. It does not seem right to indirectly burden the present parishioners of Rev. Fr. Ruiz for donee's gift tax on a donation to which they were not benefited.

* * * * *

"We saw no legal basis then as we see none now, to include within the Constitutional exemption, taxes which partake of the nature of an excise upon the use made of the properties or). upon the exercise of the privilege of receiving the properties. (Phipps vs. Commissioner of Internal Revenue, 91 F /2d/ 627; 1938, 302 U.S. 742.)

"It is a cardinal rule in taxation that exemptions from payment thereof are highly disfavored by law, and the party claiming exemption must justify his claim by a clear, positive, or express grant of such privilege by law. (Collector vs. Manila Jockey Club, 98 Phil., 670; 53 Off. Gaz. 3762.)

* * * * *

"The phrase "exempt from taxation" as employed in Section-22(3), Article VI of-the Constitution of the Philippines, should not be interpreted to mean exemption from all kinds of taxes Statutes exempting charitable and religious property from taxation should be construed fairly though strictly and in such manner as to give effect to the main intent of the lawmakers." (Roman Catholic Church vs. Hastings, 5 Phil., 701.)

* * * * *

"WHEREFORE, in view of the foregoing considerations, the decision of the respondent Commissioner of Internal Revenue appealed from, is hereby affirmed except with regard to the imposition of the compromise penalty in the amount of P20.00 (Collector of Internal Revenue vs. U.S.T., G. R. No. L-11274, Nov. 28, 1958; * * * * *, and the petitioner, the Rev. Fr. Casimiro Lladoc is hereby ordered to pay to the respondent the amount of 'P900.00 as donee's gift tax, plus the surcharge of five per centum (5%) as ad. valorem penalty under Section 119(c) of the Tax Code, and one per centum (1%) monthly interest from May 15, 1958 to the date of actual payment. The surcharge of 257a provided in Section 120 for failure to file a return may not be imposed as the failure to file a return was not due to willful neglect, (* * * * *). No costs."

The above judgment is now before Us on appeal, petitioner assigning two (2) errors allegedly committed by the Tax Court, all of which converge on the singular issue of whether or not petitioner should be liable for the assessed donee's gift tax on the P10,000.00 donated for the construction of the Victorias Parish Church.

Section 22(3), Art. VI of the Constitution of the Philippines, exempts from taxation cemeteries, churches and parsonages or convents, appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious purposes. The exemption is only from the payment of taxes assessed on such properties enumerated, as property taxes, as contra-distinguished from excise taxes. In the present case, what the Collector assessed was a donee's gift tax; the assessment was not on the properties themselves. It did not rest upon general ownership; it was an excise upon the use made of the properties, upon the exercise of the privilege of receiving the properties (Phipps vs. Com. of Int. Rev., 91 F [2d7] 627.) Manifestly, gift tax is not within the exempting provisions of the section just mentioned. A gift tax is not a property tax, but an excise tax imposed on the transfer of property by way of gift inter vivos, the imposition of which on property used exclusively for religious purposes, do not constitute an impairment of the Constitution. As well observed by the learned respondent Court, the phrase "exempt from taxation," as employed in the Constitution (supra) should not be interpreted to mean exemption from all kinds of taxes. And there being ip no clear, positive or express grant of such privilege by law, in favor of the petitioner, the exemption herein must be denied.

The next issue which readily presents itself, in view of petitioner's thesis, and Our finding that a tax liability exists, is, who should be called upon to pay the gift tax? Petitioner postulates that he should not be liable, because at the time of the donation he was not the priest of Victorias. We note the merit of the above claim, and in order to put things in their proper light, this Court, in its Resolution of March 15, 1965, ordered the parties to show cause why the Head of the Diocese to which the parish of Victorias pertains, should not be substituted in lieu of

petitioner Rev. Fr. Casimiro Lladoc, it appearing that the Head of such Diocese is the real party in interest. The Solicitor General, in representation of the Commissioner of Internal Revenue, interposed no objection to such a substitution. Counsel for the petitioner did not also offer objection thereto.

On April 30, 1965, in a resolution, We ordered the Head of the Diocese to present whatever legal issues and/or defenses he might wish to raise, to which resolution counsel for petitioner, who also appeared as counsel for the Head of the Diocese, the Roman Catholic Bishop of Bacolod, manifested that it was submitting itself to the jurisdiction and orders of this Court and that it was presenting, by reference, the brief of petitioner Rev. Fr. Casimiro Lladoc, as its own and for all purposes.

In view hereof and considering that, as heretofore stated, the assessment at bar had been properly made and the imposition of the tax. is not a violation of the constitutional provision exempting churches, parsonages or convents, etc. (Art. VI, sec. 22[3], Constitution), the Head of the Diocese, to which the parish of Victorias pertains, is liable for the payment thereof.

The decision appealed from should be, as it is hereby **AFFIRMED**, in so far as tax liability is concerned; it is **MODIFIED**, in the sense that petitioner herein is not personally liable for the said gift tax, and that the Head of the Diocese, herein substitute petitioner, should pay, as he is presently ordered to pay, the said gift tax, without special pronouncement as to costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J., and Zaldivar, JJ. concur.

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