

**LILIA YUSAY GONZALES, AS JUDICIAL CO-ADMINISTRATRIX OF THE
INTESTATE ESTATE OF THE LATE MATIAS YUSAY, PETITIONER, VS.
THE COURT OF TAX APPEALS AND THE COMMISSIONER OF
INTERNAL R...**

G.R. No. L-28821. December 19, 1980

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for certiorari with preliminary injunction questioning, as alleged grave abuse of discretion and acting without jurisdiction, the resolution dated September 11, 1967, by the respondent Court of Tax Appeals (Presiding Judge Ramon M. Umali, Associate Judge Ramon L. Avanceña, Associate Judge Estanislao R. Alvarez) in CTA Case No. 777 (G.R. No. L-19495), ordering the issuance of a writ of execution in pursuance of its ministerial duty, with dispositive portion, to wit:

"Finding the said motion of respondent to be well taken, the same is hereby granted. The Clerk of Court is hereby ordered to issue the corresponding writ of execution against the petitioner for the satisfaction of the sum of P16,246.04 and P39,178.12 as estate and inheritance taxes, respectively, plus interest and surcharge for delinquency in accordance with Section 101 of the National Internal Revenue Code, and to deputize the Commissioner of Internal Revenue to execute the said writ.

"SO ORDERED."[1]

Petitioner's motion for reconsideration of the foregoing resolution was denied by the respondent Court of Tax Appeals, as follows:

"The judgment of the Supreme Court (G.R. No. L-19495, November 24, 1966) is not a general money judgment against the estate of the late Matias Yusay but a direct and categorical order against Lilia Yusay Gonzales which is 'without prejudice to reimbursement from her co-administratrix.' We may add that the liability of the administratrices under the judgment of the Supreme Court is without prejudice to their filing their own claims against the estate in the probate proceeding.

"WHEREFORE, the motion for reconsideration is hereby denied.

"SO ORDERED."[2]

Pertinent undisputed facts are:

On April 18, 1960, petitioner filed before the Court of Tax Appeals a petition for review of the assessment of respondent Commissioner of Internal Revenue of the estate and inheritance taxes of the estate of the late Matias Yusay on the ground of prescription, docketed therein as CTA Case No. 777, to which an Answer was filed by respondent Commissioner of Internal Revenue on August 10, 1960.[3]

After hearing, respondent Court of Tax Appeals rendered judgment on January 11, 1962, holding that the

assessment had prescribed, and reversing the decision of the respondent Commissioner of Internal Revenue, whereupon respondent Commissioner of Internal Revenue appealed to the Supreme Court. In a decision dated November 24, 1966, this Court upheld the Commissioner of Internal Revenue and reversed the respondent Court of Tax Appeals in G.R. No. L-19495, with dispositive portion, to wit:

"WHEREFORE, the judgment appealed from is set aside and another entered affirming the assessment of the Commissioner of Internal Revenue dated February 13, 1958. Lilia Yusay Gonzales, as administratrix of the intestate estate of Matias Yusay is hereby ordered to pay the sum of P16,246.04 and P39,178.12 as estate and inheritance taxes, respectively, plus interest and surcharge for delinquency in accordance with Section 101 of the National Internal Revenue Code, without prejudice to reimbursement from her co-administratrix, Florencia Piccio Vda. de Yusay for the latter's corresponding tax liability.

"No costs.

"SO ORDERED."[4]

Petitioner filed a motion for reconsideration dated December 27, 1966 of the decision in G.R. No. L-19495, praying that said decision be amended so that the liability for the estate and inheritance taxes to be paid be allotted as 1/3 to petitioner and 2/3 to administratrix Florencia P. Vda. de Yusay.[5]

This Court, on April 24, 1967, in an extended resolution ruled that when petitioner represented her co-administratrix and the whole estate of Matias Yusay in CTA Case No. 777, she risked being ordered to pay the whole assessment, should the assessment be sustained. Petitioner was estopped from denying liability for the whole tax. As administratrix, petitioner is liable for the entire inheritance tax although her liability would not exceed the amount of her share in the estate. The entire inheritance tax which amounts to P39,178.12 excluding penalties is obviously much less than her distributive share.[6]

After the decision in G.R. No. L-19495 became final, respondent Commissioner of Internal Revenue filed a Motion for Execution on August 1, 1967 before respondent Court of Tax Appeals. Petitioner filed an opposition on August 11, 1967, contending that it should be the Court of First Instance of Iloilo before which Special Proceedings No. 459 (Intestate Estate of the late Matias Yusay) was pending that should enforce the decision in G.R. No. L-19495, and not the Court of Tax Appeals.

On September 11, 1967, respondent Court of Tax Appeals granted the writ of execution. On October 26, 1967, petitioner filed a motion for reconsideration which the respondent Court of Tax Appeals denied on January 18, 1968.

The only issue in this case is whether or not respondent Court of Tax Appeals committed a grave abuse of discretion tantamount to lack of jurisdiction when it ordered the execution of the decision of this Court in G.R. No. L-19495.

There is no question that respondent Court of Tax Appeals acquired jurisdiction to review the assessment of respondent Commissioner of Internal Revenue when petitioner, herself, initiated CTA Case No. 777. The said respondent Court rendered a decision favorable to petitioner which respondent Commissioner of Internal Revenue appealed to this Court in G.R. No. L-19495. The decision of this Court reversed and set aside the decision of the respondent Court of Tax Appeals and entered a new one affirming the assessment of the Commissioner of Internal Revenue.[7]

It is crystal clear, therefore, that what is ordered executed by respondent Court in its controverted resolution dated September 11, 1967,[8] is the judgment of this Court in G.R. No. L-19495. It is but proper that when the record of CTA Case No. 777 was returned to the respondent Court of Tax Appeals, it must in a ministerial manner enforce

the judgment as rendered by this Court in G.R. No. L-19495. Under Section 8 of Rule 39 of the Rules of Court, the writ of execution must issue in the name of the Republic of the Philippines from the court in which the judgment or order is entered.

When this Court ordered petitioner Lilia Yusay Gonzales in G.R. No. L-19495 to pay the estate and inheritance taxes of the estate of Matias Yusay without prejudice to reimbursement from her co-administratrix Florencia P. Vda. de Yusay, for the latter's corresponding tax liability, it did so, realizing that the pro-perties of the estate have already been distributed to the heirs (1/3 to petitioner and 2/3 to Florencia P. Vda. de Yusay) as the amended project of partition in the intestate case was affirmed by this Court in G.R. No. L-11378, promulgated August 21, 1959.[9] Petitioner, herself, filed a motion to declare Special Proceedings No. 459 in the Court of First Instance of Iloilo, regarding the intestate estate of Matias Yusay, closed.[10]

This Court in the resolution dated April 24, 1967, in G.R. No. L-19495, declared that petitioner is liable personally for the taxes imposed limited only by the value of the properties she received from the estate.[11]

For Us now to rule that the proper procedure would be for the decision of this Court in G.R. No. L-19495 to be filed in Special Proceedings No. 459 of the Court of First Instance of Iloilo as a money claim is not only too late, but also impractical, circuitous, and a cumbersome procedure that would lead to further delay in the enforcement of the judgment in this case which is for tax liability. We cannot ignore that there has been a delay of about 29 years in the payment of these taxes.

Respondent Court of Tax Appeals did not commit an error, much less abuse of discretion, in ordering the execution of the decision of this Court in G.R. No. L-19495. Obviously, this petition is merely intended to delay payment of taxes due the government.

WHEREFORE, this petition is dismissed for lack of merit, the writ of preliminary injunction issued on March 27, 1968, lifted, with double costs against petitioner.

SO ORDERED.

Barredo, (Chairman), Abad Santos, and De Castro, JJ., concur.
Aquino, J., see concurring opinion.

[1] p. 29, rollo.

[2] p. 32, Id.

[3] pp. 4; 54, Id.

[4] p. 23, Id.

[5] p. 55, Id.

[6] pp. 55-57, Id.

[7] pp. 15-23, Id.

[8] pp. 27-29, Id.

[9] pp. 59-60, Id.

[10] p. 60, Id.

[11] pp. 60-61, Id.

CONCURRING OPINION

AQUINO, J.:

I concur because the Tax Court can enforce its judgment by execution (*Ipekjdian vs. Court of Tax Appeals*, 118 Phil. 63).

If the intestate proceeding had really been closed, the closure was erroneous because no judge can authorize the delivery of a distributive share without payment of the estate tax. A document regarding legacy and inheritance cannot be registered without proof of payment of the estate and inheritance taxes (Secs. 103 and 104, Tax Code; Secs. 115, 116 and 119[b] 1977 Tax Code).

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