

THE COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ANNA HARRIET CLEMENT AND DAVID HOOKER, RESPONDENTS.

G. R. No. L-12194. January 24, 1959

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Review of the decision in C. T. A. Case No. 231 of the Court of Tax Appeals, absolving the respondent Anna Harriet Clement from the payment of inheritance tax, interest and penalty assessed against her by the petitioner, Collector of Internal Revenue.

Respondent Anna Harriet Clement is the only daughter of the spouses, A. Clinton Clement and Harriet K. Clement, both residents of the State of New Jersey, U. S. A. After her mother's death on February 14, 1930, Anna came to the Philippines to live with her uncle and aunt, Herbert C. Heald and her wife Florence C. Heald, respectively, who were then both residing in Baguio City. On December 27, 1937, guardianship proceedings were instituted in the Court of First Instance of Baguio City by Mrs. Florence C. Heald, wherein the latter was appointed guardian of the property of the minor Anna Harriet Clement. The inventory filed by the guardian as of the 31st of December, 1938, showed that the ward's property at the time had a total value of P39,000.12, consisting of cash, shares of stock and U. S. A. savings bonds.

On the basis of this value manifested in the inventory, the Collector, on July 12, 1941, caused an assessment to be made in the amount of P1,806.40 as inheritance tax, interest up to August 22, 1941 and compromise penalty. Counsel for respondent protested this assessment in his letter to the Collector, dated August 5, 1941, which the latter referred to the Provincial Revenue agent of Baguio City for investigation, comment and recommendation. In view of the outbreak of the war in December of 1941, the contemplated examination was not undertaken.

The next attempt of the Collector to enforce the tax liability was in February, 1954, followed-up with another demand on April 14, 1954. The respondent Anna Harriet Clement contested the imposition on the ground, among others, that the right of the government to collect the tax had already prescribed. The Collector nonetheless refused to cancel his assessment. A request for reconsideration having been denied, the said respondent appealed her case to the Court of Tax Appeals.

The Tax Court sustained the respondent's (appellant therein) position that the tax liability had prescribed. In so doing, the lower court did not err.

Sections 331 and 332(c) of the Tax Code which took effect on July 1, 1939 provide:

"Sec. 331. Period of limitation upon assessment and collection. Except as provided in the succeeding section, internal revenue taxes shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period. For the purposes of this section a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day: Provided, That this limitation shall not apply to cases already investigated prior to the approval of this Code."

"Sec. 332(c) Where the assessment of any internal revenue tax has been made within the period of limitation above prescribed, such tax may be collected by distraint or levy or by a proceeding in court, but only if begun (1) within five years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Collector of Internal Revenue and the taxpayer before the expiration of such five-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

There is no controversy that the inheritance tax sought to be collected was assessed on July 12, 1941, from which date the five-year period of limitation for its collection (sec. 332(c), *supra*) started to run in this particular case. The running of the period, although interrupted from December 8, 1941 to the last day of February, 1946 (see Sec. 4, Com. Act No. 722), started anew from March 1, 1946; and up to February 22, 1956, when the Collector filed its answer with the Court of Tax Appeals, a period of more than 10 years had elapsed.

It is urged, however, that since the law in force at the time of decedent's death (accrual of the tax) did not provide for any prescriptive period for the assessment and collection of the tax "(see Sections 1536-1544 of the Administrative Code, as amended by Act No. 3606), its collection now being made must not be negated merely on account of the general periods of limitation provided for the first time under the Revised National Internal Revenue Code.

The opposite view has already been intimated in the case of Collector of Internal Revenue vs. Servando de los Angeles and the Court of Tax Appeals, G. R. No. L-9899 (August 13, 1957). There it was shown that the decedent died in 1928. Assessment notices on the inheritance tax liability were sent to the heirs sometime in August, 1935. On January 28, 1955, a warrant of distraint and levy was issued and sent to the Provincial Treasurer for execution. In sustaining the taxpayer's theory that the tax had already prescribed under section 332(c) of the Tax Code, this Court ruled;

"Having been assessed within the time fixed by law, the tax in question could, pursuant to subdivision (c) of section 332, be collected by distraint or levy or by court proceeding, but, as specifically provided in that same subdivision, only if begun (1) within five years after the assessment of the tax.' After the expiration of that period of limitation, collection of the tax by any of those methods would be without the authority of law.

It is contended, however, that the prescriptive period of five years fixed in subdivision (c) of section 332 cannot be applied to the present case because of the proviso to section 331, which says that the limitation provided in that section shall not apply to cases already investigated prior to the approval of the Code. We find the contention untenable. As the Court of Tax Appeals says, the 'limitation mentioned in the proviso to section 331 can refer only to the limitation established in that section (assessment), and not to the limitation of period prescribed in section 332(c) (collection) . ' ****"

As correctly observed by the Tax Court, there would be utterly no reason and justification for the proviso found under section 331 of the Tax Code "Provided, That this limitation shall not apply to cases already investigated prior to the approval of this Code" — if Congress did not intend a retroactive operation of the periods of limitation to taxes which accrued prior to July 1, 1939. This inference becomes more inevitable considering that sections 331 and 332 are procedural in nature.

"The law fixing limitations of time against the United States in the assessment and collection of taxes, and against taxpayers in claiming refunds, constitute a growing and often altered system not to be viewed as conditions on the right to tax, but, like other limitation laws, as affecting by their own force only the remedy, x x x The question of limitation in consequence is generally to be determined, not by the law of force when the tax accrued, but by that of force when collection is attempted." (J. P. Stevens Engraving Co. vs. United States, 44 F. (2d) 822, 823).

Having arrived at this conclusion, it becomes unnecessary to take up the other issues raised.

Wherefore, the appealed decision is affirmed. No costs.

So Ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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