

## **JOSE LEDESMA, PLAINTIFF AND APPELLANT, VS. THE COLLECTOR OF INTERNAL REVENUE AND THE PROVINCIAL TREASURER OF OCCIDENTAL NEGROS, DEFENDANTS AND APPELLANTS.**

*G. R. No. 15014. October 02, 1920*

Ponente: JOHNSON, J.

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### **JOHNSON, J.:**

This action was commenced in the Court of First Instance of the Province of Occidental Negros on the 11th day of March, 1918. Its purpose was to recover of the defendants the sum of P10,065.44, together with interest and costs, which sum had been paid by the plaintiff to the defendants, under protest. The action arose under the following facts:

For the year 1916 the plaintiff made his declaration for the purpose of paying his income tax. In said declaration he claimed certain exemptions: He claimed that the sum of P135,229.10 should be deducted from his income for the reason that said sum had been paid to his employees as compensation for their services; he further claimed that the sum of P6,281.55 should be deducted on account of "depreciacion de valores en cartera;" he also claimed that his income should be further reduced by the sum of P8,000 as "exencion personal." The exemptions claimed by the plaintiff were not allowed by the defendants. The defendants insisted upon the payment of the income tax upon the full amount of the plaintiff's income, without the deductions claimed by the plaintiff. The amount demanded by the defendants was paid by the plaintiff under protest, and the present action was brought to recover the same.

The plaintiff alleged in his complaint that the persons to whom he had paid the said sum of P135,229.10 "are employees of the plaintiff in his business and as such receive a certain percentage of the annual gain of the plaintiff; and that percentage is fixed and determined, and is based upon the extent of the powers and responsibilities of each of them in the management and administration of the plaintiff's business."

In answer to that allegation of the plaintiff, the Attorney-General alleged that the sums paid to said employees "were in the nature of bonuses or distribution of profit, and were not expenses of the business." With reference to the further deduction claimed by the plaintiff, in the sum of P6,381.55, the Attorney-General alleged that said sum was claimed by the plaintiff "for book depreciation of stock" and should not be allowed as an exemption "until such time as the stock was actually disposed of."

Upon the issue thus presented by the pleadings, the Honorable Norberto Romualdez, judge, after hearing the evidence adduced during the trial of the cause, said with reference to the exemption claimed by the plaintiff in the sum of P135,229.10: "This court is of the opinion that such percentage does not constitute bonus but fixed and agreed permanent compensation in addition to the stipulated salaries and is reasonable, taking into consideration the services rendered by said employees and the importance of the business in which such services were and are being rendered." With reference to the claim of exemption on the part of the plaintiff in the sum of P6,381.55, the lower court found that "sufficient proof does not exist to support the plaintiffs theory that such sum should be

deducted from the gross income."

Upon the foregoing conclusions the lower court found that the defendants had collected from the plaintiff, without authority of law, the sum of P9,199.55, and rendered a judgment against the defendants directing and ordering them to pay said sum to the plaintiff, without interest and without any finding as to costs. From that judgment both the plaintiff and the defendants appealed to this court.

The only error assigned by the plaintiff-appellant is, that the lower court committed an error in not allowing interest upon the sum of P9,199.55. Upon that question, it is sufficient to observe that the amount which the plaintiff is trying to recover, according to his own admissions, was not paid by him until the 20th day of December, 1917. At that time section 1579 of Act No. 2711 was in full force and effect. Said section expressly provides that in actions like the present "interest" shall not be collected. The courts are, therefore, without authority to allow interest upon the sums recovered in actions like the present. The provision of that section disposes of the contention of the plaintiff-appellant.

The Attorney-General, in support of his appeal for the defendants, contends that the lower court erred in holding that the said sums paid by the plaintiff to his said employees, together with their fixed salaries constituted a reasonable compensation for their services. In support of that alleged error, the Attorney-General cites paragraph 2395 of Regulations No. 33 governing the collection of the income tax, which provides as follows:

"Special payments, sometimes denominated gifts or bonuses, made by corporations, partnerships, or individuals to employees, will constitute allowable deductions from gross income in ascertaining net income for the purpose of the income tax, when such payments are made in good faith and as additional compensation for the services actually rendered by the employees. If such payments, when added to the stipulated salaries do not exceed a reasonable compensation for the services rendered, they will be regarded as a part of the wage or hire of the employee, and therefore an ordinary and necessary expense of operation and maintenance, and as such will be deductible from gross income."

In reply to the contention of the defendants-appellants and the argument of the Attorney-General in support of the above-quoted regulations, it may be said that the plaintiff did not contend that said payments amounting to P135,229.10 were "gifts or bonuses" but were fixed compensations agreed upon, depending upon the value of the services of said employees and the importance of the business in which they were engaged.

A corporation or person engaged in a commercial enterprise has a right to fix the compensation of his employees, and said compensation shall be considered as a part of the expenses in the conduct and management of the business. In the present case there is not a word of proof in the record which disproves the declaration of the plaintiff that the said sum P135,229.10 was paid to the persons mentioned in the complaint as compensation for their services. Said sum, according to the proof, did not constitute "gifts or bonuses."

Upon all of the facts of the record, and under the law applicable thereto, the lower court was fully justified in allowing the deduction of P135,229.10 from the gross income of the plaintiff.

Therefore, the judgment of the lower court ordering the defendants to return to the plaintiff the sum of P9,199.55, without interest and without any finding as to costs, is hereby affirmed; and, without any finding as to costs in this instance, it is so ordered.

Mapa, C. J., Araullo, Malcolm, Avanceña and Villamor, JJ., concur.

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