

ANTONIO MEDINA, PETITIONER VS. COLLECTOR OF INTERNAL REVENUE AND THE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. 15113. January 28, 1961

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

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

Petition to review a decision of the Court of Tax Appeals upholding a tax assessment of the Collector of Internal Revenue except with respect to the imposition of so-called compromise penalties, which were set aside.

The records show that on or about May 20, 1944, petitioning taxpayer Antonio Medina married Antonia Rodriguez. Before 1946, the spouses had neither property nor business of their own. Later, however, petitioner, acquired forest concessions in the municipalities of San Mariano and Palanan in the Province of Isabela. From 1946 to 1948, the logs cut and removed by the petitioner from his concessions were sold to different persons in Manila through his agent, Mariano Osorio.

Some time in 1949, Antonia R. Medina, petitioner's wife, started to engage in business as a lumber dealer, and up to around 1952, petitioner sold to her almost all the logs produced in his San Mariano concession. Mrs. Medina, in turn, sold in Manila the logs bought from her husband through the same agent, Mariano Osorio. The proceeds were, upon instructions from petitioner, either received by Osorio for petitioner or deposited by said agent in petitioner's current account with the Philippine National Bank.

On the thesis that the sales made by petitioner to his wife were null and void pursuant to the provisions of Article 1490 of the Civil Code of the Philippines (formerly, Art. 1458, Civil Code 1889), the Collector considered the sales made by Mrs. Medina as the petitioner's original sales taxable under Section 186 of the National Internal Revenue Code and, therefore, imposed a tax assessment on petitioner, calling for the payment of P4,553.54 as deficiency sales taxes and surcharges from 1949 to 1952. This same assessment of September 26, 1953 sought also the collection of another sum of P643.94 as deficiency sales tax and surcharge based on petitioner's quarterly returns from 1946 to 1952.

On November 30, 1953, petitioner protested the assessment; however, respondent Collector insisted on his demand. On July 9, 1954, petitioner filed a petition for reconsideration, revealing for the first time the existence of an alleged premarital agreement of complete separation of properties between him and his wife, and contending that the assessment for the years 1946 to 1952 had already prescribed. After one hearing, the Conference Staff of the Bureau of Internal Revenue eliminated the 50% fraud penalty and held that the taxes assessed against him before 1948 had already prescribed. Based on these findings, the Collector issued a modified assessment, demanding the payment of only P3,325.68, computed as follows:

5% tax due on P7,209.83—1949

P 360.49

5% tax due on 16,945.55—11950

847.28

5% tax due on 16,874.52—11951

843.75

5% tax due on 11,009.94—11952

550.50

TOTAL sales tax due

P2,602.02

25% Surcharge thereon

650.51

Short taxes per quarterly return, 3rd quarter, 1950

58.52

25% Surcharge thereon

14.63

TOTAL AMOUNT due & collectible

P3,325.68

Petitioner again requested for reconsideration, but respondent Collector, in his letter of April 4, 1955, denied the

same.

Petitioner appealed to the Court of Tax Appeals, which rendered judgment as aforesaid. The court's decision was based on two main findings, namely, (a) that there was no pre-marital agreement of absolute separation of property between the Medina spouses; and (b) assuming that there was such an agreement, the sales in question made by petitioner to his wife were fictitious, simulated, and not bona fide.

In his petition for review to this Court, petitioner raises several assignments of error revolving around the central issue of whether or not the sales made by the petitioner to his wife could be considered as his original taxable sales under the provisions of Section 186 of the National Internal Revenue Code.

Relying mainly on testimonial evidence that before their marriage, he and his wife executed and recorded a pre-nuptial agreement for a regime of complete separation of property, and that all trace of the document was lost on account of the war, petitioner imputes lack of basis for the tax court's factual findings that no agreement of complete separation of property was ever executed by and between the spouses before their marriage. We do not think so. Aside from the material inconsistencies in the testimony of petitioner's witnesses pointed out by the trial court, the circumstantial evidence is against petitioner's claim. Thus, it appears that at the time of the marriage between the petitioner and his wife, they neither had any property nor business of their own, as to have really urged them to enter into the supposed property agreement. Secondly, the testimony that the separation of property agreement was recorded in the Registry of Property three months before the marriage, is patently absurd, since such a pre-nuptial agreement could not be effective before marriage is celebrated, and would automatically be cancelled if the union was called off. How then could it be accepted for recording prior to the marriage? In the third place, despite their insistence on the existence of the ante-nuptial contract, the couple, strangely enough, did not act in accordance with its alleged covenants. Quite the contrary, it was proved that even during their taxable years, the ownership, usufruct, and administration of their properties and business were in the husband. And even when the wife was engaged in lumber dealing, and she and her husband contracted sales with each other as aforesaid, the proceeds she derived from her alleged subsequent disposition of the logs—incidentally, by and through the same agent of her husband, Mariano Osorio—were either received by Osorio for the petitioner or deposited by said agent in petitioner's current account with the Philippine National Bank. Fourth, although petitioner, a lawyer by profession, already knew, after he was informed by the Collector on or about September of 1953, that the primary reason why the sales of logs to his wife could not be considered as the original taxable sales was because of the express prohibition found in Article 1490 of the Civil Code of sales between spouses married under a community system; yet it was not until July of 1954 that he alleged, for the first time, the existence of the supposed property separation agreement. Finally, the Day Book of the Register of Deeds on which the agreement would have been entered, had it really been registered as petitioner insists, and which book was among those saved from the ravages of the war, did not show that the document in question was among those recorded therein.

We have already ruled that when the credibility of witnesses is the one at issue, the trial court's judgment as to their degree of credence deserves serious consideration by this Court (Collector vs. Bautista, et al., G. R. Nos. L-12250, L-12259, May 27, 1959). This is all the more true in this case because not every copy of the supposed agreement, particularly the one that was said to have been filed with the Clerk of Court of Isabela, was accounted for as lost; so that, applying the "best evidence rule", the court did right in giving little or no credence to the secondary evidence to prove the due execution and contents of the alleged document (see Comments on the Rules of Court, Moran, 1957 Ed., Vol. 3, pp. 10-12).

The foregoing findings notwithstanding, the petitioner argues that the prohibition to sell expressed under Article 1490 of the Civil Code has no application to the sales made by said petitioner to his wife, because said

transactions are contemplated and allowed by the provisions of Articles 7 and 10 of the Code of Commerce, But said provisions merely state, under certain conditions, a presumption that the wife is authorized to engage in business and for the incidents that flow therefrom when she so engages therein. But the transactions permitted are those entered into with strangers, and do not constitute exceptions to the prohibitory provisions of Article 1490 against sales between spouses.

Petitioner's contention that the respondent Collector cannot assail the questioned sales, he being a stranger to said transactions, is likewise untenable. The government, as correctly pointed out by the Tax Court, is always an interested party to all matters involving taxable transactions and, needless to say, qualified to question their validity or legitimacy whenever necessary to block tax evasion.

Contracts violative of the provisions of Article 1490 of the Civil Code are null and void (Uy Sui Pin vs. Cantollas, 70 Phil. 55; Uy Coque vs. Sioca, 45 Phil. 43). Being void transactions, the sales made by the petitioner to his wife were correctly disregarded by the Collector in his tax assessments that considered as the taxable sales those made by the wife through the spouses' common agent, Mariano Osorio. In upholding that stand, the Court below committed no error.

It is also the petitioner's contention that the lower court erred in using illegally seized documentary evidence against him. But even assuming arguendo the truth of petitioner's charge regarding the seizure, it is now settled in this jurisdiction that illegally obtained documents and papers are admissible in evidence, if they are found to be competent and relevant to the case (see *Wong & Lee vs. Collector of Internal Revenue*, 104 Phil. 469). In fairness to the Collector, however, it should be stated that petitioner's imputation is vehemently denied by him, and relying on Sections 3, 9, 337 and 338 of the Tax Code and the pertinent portions of Revenue Regulations No. V-1 and citing this Court's ruling in *U.S. vs. Aviado* 38 Phil., 10, the Collector maintains that he and other internal revenue officers and agents could require the production of books of accounts and other records from a taxpayer.

Having arrived at the foregoing conclusion, it becomes unnecessary to discuss the other issues raised, which are but premised on the assumption that a pre-marital agreement of total separation of property existed between the petitioner and his wife.

Wherefore, the decision appealed from is affirmed with costs against the petitioner.

Padilla, Bautista Angelo, Labrador, Barrera, Gutierrez David, and Dizon, JJ., concur.

CONCEPCION, J.: concurring in the result:

I concur in the result. I do not share the view that documents and papers illegally obtained are admissible in evidence, if competent and relevant to the case. In this connection, I believe in the soundness of the following observations of the Supreme Court of the United States in *Weeks vs. United States* (232 U.S. 383, 58 L. ed. 652, 34 S. Ct. 341)[1]:

"The effect of the Fourth Amendment is to put the courts of the United States and Federal officials in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers and effects against all unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all entrusted under our Federal system with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting accused persons to unwarranted practices destructive of rights secured by the Federal Constitution, should find no sanction in the judgments of the courts which are charged at all times with the support of the Constitution and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights.

"* * * If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment declaring his right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might as well be stricken from the constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land."

as applied and amplified in *Elkins vs. United States* (June 27, 1960), 4 L. ed. 1669.

[1] See also *Silverthorne Lumber Co. vs. United States*, 251 US 385, 64 L. ed. 319, 40 S. Ct. 182, 24 ALR 1426; *Gouled vs. United States*, 255 US 298, 65 L. ed. 647, 41 S. Ct. 261; *Amos vs. United States*, 255 US 313, 65 L. ed. 654, 41 S. Ct. 266; *Agnello vs. United States*, 269 US 20, 70 L. ed. 145, 46 S. Ct. 4, 51 ALR 409; *Go Bart Importing Co. vs. United States*, 282 US 344, 75 L. ed. 374, 51 S. Ct. 153; *Grau vs. United States*, 287 US 124, 77 L. ed. 212, 53 S. Ct. 38; *McDonald vs. United States*, 335 US 451, 93 L. ed. 153, 69 S. Ct. 191; *United States vs. Jeffers*, 342 US 48, 96 L. ed. 59, 72 S. Ct. 93.

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