

SAGRADA ORDEN DE PREDICADORES DE LA PROVINCIA DEL SANTISIMO ROSARIO DE FILIPINAS, PLAINTIFF AND APPELLEE, VS. WENCESLAO TRINIDAD, COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND AP...

G. R. No. 17221. November 28, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 10th day of October, 1919, the defendant Collector of Internal Revenue demanded of the plaintiff, and the latter paid under protest, the sum of P1,541.31 as income tax corresponding to the period from March 31 to December 31, 1913. To recover the said amount, together with legal interest thereon and the costs, the present action was commenced in the Court of First Instance of the city of Manila on the 6th day of April, 1920. From a judgment granting the prayer of the complaint the defendant has appealed to this court.

The facts are stipulated by the parties as follows:

"That plaintiff is a corporation sole incorporated under sections 154 to 164 of Act No. 1459 of the Philippine Commission, and is organized and operated for religious, charitable, scientific and educational purposes in these Islands and its missions in China, Cochin China and Japan, and that neither its net income, nor any part thereof, inures to the benefit of any private stockholder or individual, or any one of its members, who have no right whatever to said income, even in case of dissolution.

"That the dividends and interests or profits and expenses stated in defendant's Exhibit 1 as plaintiff's income, are the profits derived by plaintiff corporation from investments made of part of its capital about the year 1913, to the extent and in the manner specified in said defendant's Exhibit 2, and that the rents mentioned in said Exhibit 1 are rents on the properties listed in the defendant's Exhibit 3, with the respective value of each."

According to Exhibits 1, 2, and 3, above-mentioned, the plaintiff received P90,092.70 for rents on lands and buildings situated in Manila, Cavite, and Rizal; P96,465.54 as dividends on shares of stock in the Bank of the Philippine Islands, "Fabrica de Hielo de Manila," Johnson Picket Rope Company, Germinal Cigar and Cigarette Factory, and Philippine Sugar Development Company; the sum of P54,239.19 as interests on money loaned and funds deposited in banks; and the sum of P68,144.45 as profits from sales of 12 Germinal Cigar and Cigarette Factory stocks, wines, chocolate, merchandise, religious articles and unclassified profits and donations. After expenditures had been deducted from these earnings, the defendant found the sum of P154,130.68 on which, according to the contention of the defendant, income tax should be imposed at the rate of 1 per cent under the provisions of the Federal Income Tax Law of 1913.

The only question presented by the appellant is whether the plaintiff-appellee is exempt from the payment of income tax under paragraph G (a) of the Federal Income Tax Law of 1913 (Act of Congress of October 3, 1913). The pertinent part of said paragraph provides that "nothing in this section shall apply * * * to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no

part of the net income of which inures to the benefit of any private stockholder or individual, * * *."

The Act of Congress of February 24, 1919 (U. S. Stat. at L., vol. 40, part I) contains a similar provision as follows:

"SEC. 231. That the following organizations shall be exempt from taxation under this title—

* * * * *

" (6) Corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual."

As seen from the above stipulation of facts, the plaintiff is a corporation sole, "organized and constituted for religious, charitable, scientific and educational purposes," and that no part of its property or earnings belongs to, or inures to the benefit of, any of its members, who have no right to the same even in case of dissolution.

The only contention of the defendant-appellant is, that inasmuch as the plaintiff invested part of its capital in commercial and industrial enterprises, it cannot be said to have been operated exclusively for religious, charitable, scientific or educational purposes, and, therefore, it is not entitled to exemption under the above-quoted provisions of the law. Quoting from Mr. Holmes, in his work on the Federal Taxes, and from the ruling of the Commissioner of Internal Revenue of the United States, of May 15, 1919, appellant maintains that: "In order to be exempt, the corporation or association must meet three tests: (a) it must be organized and operated for one or more of the specified purposes; (b) it must be organized and operated exclusively for such purposes; and (c) no part of its income must inure to the benefit of private stockholders or individuals." Appellant contends that the plaintiff did not meet the second test; that it was not operated exclusively for religious, charitable, scientific or educational purposes.

It is not contended that any part of the profits derived by the plaintiff from the secular investments above referred to was devoted to, or used for, any other purpose than the carrying out of its religious and educational work. It is admitted, on the other hand, that no part thereof inured to any individual member of the plaintiff corporation. Neither is it even intimated by the appellant that the funds so invested by the appellee, as above indicated, were, at the time of their investment, needed by the plaintiff in order to carry out its religious or educational work. On the contrary, appellant himself says in his brief that "all these (funds) were in excess of the corporation's legitimate religious needs."

It appears, then, that the plaintiff invested its surplus funds on hand in the secular enterprises above-mentioned in order to derive profits therefrom, to be used exclusively in its religious and educational work. The operation, therefore, though, of course, not religious or educational in nature, was made ultimately and exclusively for religious and educational purposes. We are therefore of the opinion that notwithstanding the investment of its surplus funds in the enterprises mentioned in defendant's Exhibits 2 and 3, the plaintiff corporation still continued to be "organized and operated exclusively for religious and educational purposes," and was, therefore, entitled to the exemption provided by law.

Wherefore, the judgment of the lower court is hereby affirmed, without any finding as to costs. So ordered.

Araullo, C. J., Street, Avancena, Villamor, and Romitaldez, JJ., concur.

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