

MIGUEL J. OSSORIO, PLAINTIFF AND APPELLANT, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLEE.

G.R. No. 31088, December 03, 1929

Ponente: ROMUALDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31088/>

ROMUALDEZ, J.:

This action is for the recovery from the defendant of the sum of P56,246.72 which he, according to the complaint, collected from the plaintiff in excess of what he should have collected by way of income tax, in accordance with the declaration presented for that purpose.

PROCEEDINGS

To the complaint filed with the trial court on July 9, 1928, the defendant interposed his answer which was subsequently amended, denying generally and specifically the allegations of the complaint, setting up a special defense and praying that he be absolved from the complaint.

On September 13, 1928, the parties presented a stipulation of facts upon which they submitted the case to the court for decision, which was decided and the defendant absolved from the complaint with costs against the plaintiff.

The latter appealed from said judgment, and the case is before us upon the respective briefs of both parties.

FACTS

The facts are stated in the following stipulation:

"I. That the facts alleged in paragraphs I, II, III, V, VI and VII of the complaint in the case are admitted as true.

"II. That the plaintiff and his wife Paz Yangco de Ossorio were married in this country on February 10, 1910, pursuant to the law governing conjugal partnership.

"III. That on April 5, 1910, Paz Yangco de Ossorio executed a power of attorney in favor of her husband, the herein plaintiff, appearing in Exhibit A of the plaintiff, attached to the complaint in this case; and that on December 14, 1918, said plaintiff, in turn, executed a power of attorney in favor of his brother Jesus J. Ossorio, appointing the latter as his substitute, copy of which document is the aforesaid Exhibit A of the plaintiff.

"IV. That Exhibits 1 and 2, accompanying the present stipulation of facts as an integral part thereof, are certified copies of the income tax declarations corresponding to the year 1927, presented by the plaintiff and his wife; and that Exhibit 3, also attached to the present stipulation, as an integral part thereof, is a certified copy of assessment notice No. 3211 to which paragraph VI of the complaint in this case refers.

"V. That on June 9, 1928, the attorney for the plaintiff and his wife addressed a letter to the defendant, copy of which, marked Exhibit C of the plaintiff, is attached to the complaint in this case; and that the defendant

answered said letter on the 11th day of said month and year, copy of which answer, marked Exhibit D, is also attached to the complaint in this case.

"VI. That on June 15, 1928, the plaintiff, thru his attorney, paid to the treasurer of the City of Manila the sum of P59,928.29, by way of income tax assessed in Exhibit 3, having made said payment under protest, as shown by the letter dated June 15, 1928, sent by said attorney to the treasurer of the city, copy of which, marked Exhibit E, is attached to the complaint herein, and by another letter of the same date sent by the treasurer of the city to said attorney, copy of which, marked Exhibit F, is also attached to the complaint in this case.

"VII. That the official receipt No. 95813, issued by the treasurer of the City of Manila, for the payment under protest of the taxes mentioned in the foregoing paragraph, contains the following heading:

" 'INCOME TAX RECEIPT

" 'ASSESSMENT NO. 3211

" 'Don MIGUEL J. OSSORIO Taxpayer's name.

" 'Tax due as per return P59,928.29

" 'Paid under protest letter dated June 15, 1928.'

"VIII. That on June 20, 1928, the plaintiff, thru his attorney, sent a letter to the defendant, copy of which, marked Exhibit G, is attached to the complaint herein.

"IX. That the protest made by the plaintiff was overruled by the defendant, by his letters, copies of which marked Exhibits H and I, are attached to the complaint in this case.

"X. That Exhibits 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 accompanying this stipulation, as an integral part thereof, are certified copies of the income tax declarations presented by the plaintiff and his wife Paz Yangco de Ossorio, for the years 1920, 1921, 1922, 1923, 1925 and 1926; that Exhibit 16, also attached to this stipulation as an integral part thereof, is a certified copy of the assessment notice corresponding to Exhibits 14 and 15; that the tax declarations of the plaintiff and his wife mentioned in this paragraph were combined yearly by the Internal Revenue Office for the purposes of assessment and collection of the additional assessment or tax established by the Income Tax Law, in accordance with the practice followed by said office; and that the taxes owing by virtue of said tax declarations were paid without protest.

"XI. That the taxes owing the Government on the combined tax declarations of the plaintiff and his wife, Exhibits 1 and 2, amount to P59,928.29, as shown by assessment notice No. 3211, Exhibit 3; but if said two tax declarations of the plaintiff and his wife are assessed and computed separately, it would show that the taxes owing from the plaintiff on his own tax declaration, Exhibit 1, is P3,724.72, and the taxes owing from his wife Paz Yangco de Ossorio, on her own tax declaration Exhibit 2 would be P45,505.65.

"It is understood, agreed and stipulated that the agreement as to the truth of the facts stated in paragraphs X and XI of this stipulation shall not prevent the plaintiff from objecting, as he hereby objects, that Exhibits 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, as well as the taxes owing from Paz Yangco de Ossorio, according to her income tax declaration Exhibit 2, are impertinent, irrelevant and immaterial in this action, and the said plaintiff makes known his exception in the event the court overrules this objection; nor would it prevent the defendant from excepting, as he hereby excepts, in the event the court sustains the plaintiff's objection.

"Upon the foregoing stipulations, the parties respectfully submit the case to the decision of the court." (Pages 34 to 40 of the Bill of Exceptions.)

The allegations admitted in paragraph I of this stipulation of facts are as follows:

"I. That the plaintiff is of age and lives with his wife Paz Yangco de Ossorio in the City of Manila, where they have their conjugal domicile.

"II. That the defendant is and has been at all times stated in the complaint, the Collector of Internal Revenue of the Government of the Philippine Islands, to which office he is duly appointed, qualified and in the full exercise of his functions.

"III. That the wife of this plaintiff, Paz Yangco de Ossorio, has her own paraphernal properties inherited from her father Don Luis R. Yangco, which were adjudicated to her as a testate inheritance in a partition approved by a judicial order dated March 12, 1909, entered in the estate proceedings No. 5853 of the Court of First Instance of Manila, which partition appears not only in the aforesaid estate proceeding but also in the register of deeds for the City of Manila, where a certified copy thereof was filed a few days after the order approving the same was entered.

"V. That before March 1, 1926, while plaintiff and his wife were absent on vacation, Mr. Jesus J. Ossorio, who is also attorney-in-fact for the plaintiff by virtue of another letter, presented upon printed official forms supplied by the defendant's office, two separate and individual tax declarations for the year 1927; one for the plaintiff, showing a net taxable amount of P128,631.35, and the other for his wife, for the income of her paraphernal property, showing a net taxable amount of P598,686.70.

"VI. That the defendant, as Collector of Internal Revenue of the Philippine Islands, combined the two separate and independent declarations of plaintiff and his wife, and assessed the amount of P59,928.29 against the plaintiff alone, according to assessment notice No. 3211, a copy of which is attached to this complaint as Exhibit B and forms an integral part thereof.

"VII. That in the foregoing assessment notice, Exhibit B, of this complaint, the defendant assessed the plaintiff alone the additional tax upon the sum total of the income accruing to the plaintiff and his wife, according to the declarations referred to in paragraph V of this complaint." (Pages 48 to 49, Bill of Exceptions.)

QUESTIONS RAISED

The basic point of discussion between the parties is whether the paraphernal property of the plaintiff's wife constitutes her "separate estate" within the scope and meaning of this phrase for the purposes of the additional income tax, so that she is entitled to file a separate declaration, and to have the additional tax on the income from her paraphernal property separately assessed.

There is no dispute between the parties as to whether the property in question is paraphernal property. In fact it is paraphernal, because the plaintiff's wife acquired it by inheritance. (Art. 1381, Civil Code; *Alvaran vs. Marquez*, 11 Phil., 263.)

As the rules governing the income tax in the Philippines are derived from North America, it is necessary to determine whether or not the "paraphernal property" under our Civil Code is the so-called "separate estate" of North American law and jurisprudence.

In our opinion the parapherna constitute the property designated in the United States law and jurisprudence, "statutory separate estate" as distinguished from the "equitable separate estate" which is a creation of the English Common Law, not in force in the Philippines, because our law on the matter has been derived from Spain, and through Spain from the Roman Law. This is one definition of the "wife's separate estate":

"A wife's separate estate is that from which the dominion and control of the husband is excluded, and from which he is to derive no benefit by reason of the marital relation. It may be equitable or statutory, according to the mode of its creation," and notes (30 Corpus Juris, 795).

We are convinced that what we consider "paraphernal property" is equivalent to the "statutory separate estate" of North American law, of which one definition is made in the decision appealed from and cited in the brief of the Attorney-General, to wit:

"Both in England and in this country statutes have been enacted which usually provide that the real and personal property of any married woman which she may have at the time of marriage, or which she may thereafter acquire, shall not be subject to the disposal of her husband, nor liable for his debts, but shall continue her sole and separate property as if she were a feme sole. (13 R. C. L., 1147, sec. 170.)" (Pages 7 and 8, Attorney-General's brief.)

According to the Civil Code in force in the Philippines, by paraphernal property is meant that which the wife brings to the marriage without including it in the dowry, and that which she later acquires without adding it thereto. The wife retains the ownership over such property; the husband cannot exercise any action of any sort with respect to such property without the intervention or consent of his wife, who has the management of said property, unless she has made it over to him before a notary in order that he may administer it, in which case the husband is bound to give a mortgage for the value of the personal property received by him, or to give security therefor in the manner provided for in dowered estate. The husband's personal obligations shall not be collected from the income of the paraphernal property, unless it be proved that they have been for the benefit of the family. (Arts. 1381, 1382, 1383, 1384, and 1386 of the Civil Code.)

It should be noted that both with respect to the "paraphernal property," and to the "statutory separate estate," the ownership thereof belongs to the wife exclusively, and the income is not at the husband's disposal, nor is she responsible for his personal obligations.

The following citation from Ruling Case Law is invoked in support of the contention that "separate estate" is not the same as paraphernal property:

"Under the several statutory and constitutional provisions the rents, profits, increase and income of the wife's separate property are generally her separate property as fully as the corpus of the property itself, and it is not material that such profits are produced by the skill and labor of the woman in the use and management of her separate property, while living with her husband. (13 B. C. L., 1151, sec. 175.)" (Page 8, Attorney-General's brief), to show that the "separate estate" differs from the "paraphernal property" in that, among other details, our Civil Code provides that the fruits, rents or interest from the paraphernal property are a part of the conjugal property (art. 1385).

But it must be observed that the citation from the Ruling Case Law quoted above starts out by saying: "Under the several statutory and constitutional provisions," and it does not state that such is the prevailing rule in all of the North American States. The truth is, as everybody knows, that some of the North American States are governed by laws of Roman origin, brought thither through Spanish and French legislation. Thus the conjugal property system prevails in Texas, Arizona, California, Washington, Louisiana, and New Mexico (T. D. 3071, "Cumulative Bulletin" No. 3, page 221).

The fact that under the law the income from the paraphernal property passes to the conjugal property does not prevent it from being income derived from the wife's separate estate, and taxable as such. It must not be lost sight of that the income tax shall be collected at the source, "collection at the source." (Income Tax, Black, 4th edition, pages 245 et seq.)

When the wife's income passes to the marriage property, it is not added as income from the conjugal property, but as a part of the funds or capital of said property. The income tax cannot be assessed against it as though it were conjugal property income, because it is not; neither can it be assessed as a tax on the husband's income, because it

is not his income. If the income from the paraphernal property is to be taxed as income, it must be taxed as the wife's income, and not as income of any other person or entity. Otherwise, the income from the paraphernal property could not be subject to the income tax; such a tax could not be assessed against the wife because it forms a part of the conjugal property; and it could not be assessed again at the conjugal partnership because it is not the income of said partnership.

The court being of the opinion that the paraphernal property is the equivalent of the North American so-called "wife's separate estate," and that the income therefrom is taxable as the wife's income, and not as a part of the funds (not income) of the conjugal partnership, we see no reason for not applying to the instant case the resolution of the United States Department of the Treasury passed upon a case that originated in the Philippines, and therefore, arrived at after a consideration of our laws on conjugal property and those on separate property of husband and wife, quoted with approval in the case of *Madrigal and Paterno vs. Rafferty and Concepcion* (38 Phil., 414), as follows:

"The only occasion for a wife making a return is where she has income from a sole and separate estate in excess of \$3,000, or where the husband and wife neither separately have an income of \$3,000, but together they have an income in excess of \$4,000, in which latter event either the husband or wife may make the return but not both. In all instances the income of husband and wife whether from separate estates or not, is taken as a whole for the purpose of the normal tax. Where the wife has income from a separate estate and makes return thereof, or where her income is separately shown in the return made by her husband, while the incomes are added together for the purpose of the normal tax they, are taken separately for the purpose of the additional tax.

* * *"

Wherefore, the judgment appealed from is reversed, and it is ordered that the defendant make two separate assessments of the additional income tax, one against the plaintiff, and the other against his wife on her paraphernal property, returning the sum of P56,203.59 to said plaintiff, without prejudice to his levying against and collecting from said plaintiff's wife upon her own separate individual declaration, in accordance with law, the additional income tax for the income from her paraphernal property.

Judgment without express award of costs.

Avanceña, C. J., Johnson, Street, Villamor, Johns, and Villa-Real, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.